

## CHAPTER IV

### ENVIRONMENTAL REVIEW

#### **PURPOSE**

Missouri's CDBG grantees are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), which establishes national policies, goals, and procedures for protecting, restoring, and enhancing environmental quality. In addition to NEPA, the environmental review requirements for CDBG-funded activities are also subject to other statutes, executive orders, and Federal regulations specified in Federal Regulation 24 CFR Part 58. No CDBG funds may be obligated or expended until the environmental review is complete and DED has issued a formal release of funds, Notice of Removal of Grant Conditions. It is important to note that *every* project will require some level of review.

**The CDBG Environmental Review Process is as follows:**

#### **STEP 1**

**Designate Environmental Review Officer** – This individual is responsible for completing the review and making the finding of level of impact of the activity/project on the environment. A grant administrator, city/county staff person, or project engineer is commonly assigned to this responsibility.

**Environmental Review Certifying Officer** – This individual is typically the mayor or presiding commissioner whose responsibility is to sign off on the finding of level of impact.

#### **STEP 2**

**Create Environmental Review Record** – Establish a written file or record of all environmental documentation completed during the review process. This record must be kept at the grantee's office and made available for public review.

#### **STEP 3**

**Develop Project Description** – The description should be complete in detail describing all activities to be undertaken. Project activities will assist in determining the level of review the project will require. Refer to the Federal Regulation 24 CFR Part 58, located in this chapter, to assist you in determining the level of review for your project activities.

#### **STEP 4**

**Determine Level of Review** – Federal Regulation 24 CFR Part 58 provides instructions and guidance to grantees for conducting the environmental review process, as **required**. There are three levels of environmental review to consider: Exempt, Categorically Excluded, and Environmental Assessment, as explained below.

1. **Exempt Activities Part 58.34**: These kinds of activities are specifically exempt from the environmental review requirements as the activity has been determined to have no adverse impact on the environment. The principal exempt activities include:
  - Administration of the grant/loan
  - Environmental studies or assessments
  - Project planning and management
  - Engineering design

Funds may be used for these purposes when the grant contract, known as the Funding Approval, is executed.

2. **Categorically Excluded Activities Part 58.35:** If the activity is not Exempt, the grantee must determine if it is Categorically Excluded. Categorically Excluded activities are those excluded from the requirements of NEPA, but may be subject to other Federal laws or authorities as listed in 24 CFR Part 58.5. There are **two classifications** under Categorically Excluded activities to consider – 58.35(a) and 58.35(b):
  - a. **58.35 (a) Categorically Excluded Activities Subject to Part 58.5:** The following activities may be subject to review under authorities listed in 58.5:
    - Acquisition, repair, improvements, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when facilities/improvements will have same use without changes in size or capacity of more than 20%.
    - Projects to remove barriers restricting mobility and accessibility to elderly and handicapped persons.
    - Rehab of buildings and improvements upon these conditions: unit density not changed more than 20%; project does not change land use from residential to non-residential; estimated cost of rehab is less than 75% of total cost of replacement after rehab; or activity does not change land use from non-residential to residential, commercial to industrial, or from one to another.
    - Acquisition or disposition of existing structure, or acquisition of vacant land, provided that the structure or land acquired or disposed of will retain the same use.
    - Combination of the above activities.
  - b. **58.35 (b) Categorically Excluded Activities NOT Subject to Part 58.5:** HUD has determined that the following Categorically Excluded activities would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in Part 58.5 (activities having no adverse impact on physical composition of buildings or land):
    - Tenant-based rental assistance;
    - Supportive services, including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;
    - Operating costs, including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs;
    - Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;
    - Activities to assist homebuyers purchase existing dwelling units or dwelling units under construction, including closing costs, down payment assistance, interest buy-downs, and similar activities that result in the transfer of title.
    - Affordable housing pre-development costs, including legal, consulting, developer and other costs related to obtaining site options, project financing,

administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

3. **Environmental Assessment Part 58.36:** If project activities are not Exempt or Categorically Excluded NOT Subject to other applicable Federal laws and authorities (58.35 (b)), then the grantee must complete an Environmental Assessment (Exhibit 3) and all other applicable procedures.

Your project **MUST** meet one of the levels of review as described above. After the level of review has been made, continue on to Step 5.

## **STEP 5**

Follow procedures applicable to the level of review required.

### **Exempt Activities**

If an activity is determined Exempt, no further review is required. However, a description of the activity followed by citation of the applicable regulation should be documented and signed off by both the Environmental Review Officer and the Environmental Review Certifying Officer, and placed in the Environmental Review Record. For example:

The following activities were determined exempt as indicated under 24 CFR Part 58.34:

Administration and Engineering Design

\_\_\_\_\_  
Environmental Review Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Environmental Review Certifying Officer

\_\_\_\_\_  
Date

### **Categorically Excluded Activities:**

For activities Categorically Excluded **SUBJECT TO** other related Federal laws and authorities (58.35 (a)), the following procedure is required:

1. Complete the Finding of Categorical Exclusion Subject to Review (Exhibit E-2) form and submit to the CDBG Environmental Specialist for concurrence.
2. Complete and submit the Section 106 Project Information Form (Exhibit 10) to the State Historic Preservation Office (SHPO) for a clearance letter. The SHPO has up to 30 days to review your information.
3. Complete the Environmental Assessment packet (Exhibit 3), and document the finding of level of impact. Submit this packet to the CDBG Environmental Review Specialist who will review it **only** to ensure it is complete and that a finding has been made.
4. The CDBG Environmental Review Specialist will then inform the grantee to publish the Notice of Intent (Exhibit 4) and floodplain notices, if applicable, in the **non-legal section** of the newspaper. Submit the notice(s) to the agencies listed in Exhibit E-6. This notice requires a seven-day local

comment period. If any comments are received in writing, respond in writing and provide copies of this correspondence to CDBG.

5. After the seven-day local comment period, submit a copy of the publication(s) and affidavit(s) of publication along with the Request For Release of Funds and Certification (Exhibit E-7) and SHPO clearance letter to CDBG.
6. Upon receipt of the above information, CDBG will begin a 15-day State comment period.
7. On the 16<sup>th</sup> day, pending any conditions by other environmental agencies, CDBG will release funds, Removal of Grant Conditions (Exhibit E-8).

For activities Categorically Excluded **NOT Subject To** other related Federal laws and authorities (58.35(b)), the following procedure is required:

1. Complete Categorical Exclusion, Not Subject To Related Statutory Authorities Form (Exhibit E-1), and submit to the CDBG Environmental Review Specialist for concurrence.
2. Upon receipt and concurrence of the above form, CDBG will release funds.

### **Environmental Assessment**

Activities not deemed Exempt or Categorically Excluded **require** an Environmental Assessment (Exhibit E-3) along with the applicable environmental notices and comment periods described below:

1. Complete and submit the Section 106 Project Information Form (Exhibit 10) to the State Historic Preservation Office (SHPO) for a clearance letter. The SHPO has up to 30-days to review your information.
2. Complete the Environmental Assessment packet (Exhibit 3) and document the finding of level of impact. Submit this packet to your CDBG Field Representative who will review it **only** to ensure it is complete and that a finding has been made.
3. Publish the Combined Notice (Notice of Finding of No Significant Impact and Notice to Request Release of Funds) (Exhibit E-5) and floodplain notice, if applicable, in the **non-legal section** of the newspaper. Submit this notice(s) to the agencies listed in Exhibit E-6. This notice requires a 15-day local comment period. If any comments are received in writing, respond in writing and provide copies of this correspondence to CDBG.
4. After the 15-day local comment period, submit a copy of the publication(s) and affidavit(s) of publication along with the Request For Release of Funds and Certification (Exhibit E-7) and SHPO clearance letter to CDBG.
5. Upon receipt of the above information, CDBG will begin a 15-day State comment period.
6. On the 16<sup>th</sup> day, pending any conditions by other environmental agencies, CDBG will release funds, Removal of Grant Conditions (Exhibit E-8).

**Note:** If at anytime the project scope is changed, if new circumstances and environmental conditions arise, or if alternatives not considered originally are selected, the impact of the new project/activities must be reassessed, new findings and public notices prepared, and a new Request For Release of Funds and Certification submitted to CDBG.

## **UNIQUE CIRCUMSTANCES**

### **Economic Development Activities**

The Environmental Review procedures for Economic Development projects remain the same as other types of projects, but must include a release of the company's private investment prior to the release of public monies. It is important to note that private investment match cannot be counted toward the project until the environmental review is complete and the private release is issued.

In some instances, activities in economic development projects are exempt from environmental review. These activities may include payment of principle and interest on loans made or obligations guaranteed. Other examples may be found in 24 CFR Part 58.34. In other circumstances, activities are deemed categorically excluded, which means the activity does not require an environmental impact statement, environmental assessment, or Finding of No Significant Impact (FONSI) under NEPA. However, compliance with other applicable Federal laws and authorities needs to be assessed. Examples of these types of economic development activities include working capital, some types of machinery and equipment purchases, inventory financing, interest subsidy, and other costs not associated with construction or expansion of existing operation. More examples can be found in 24 CFR Part 58.35(b).

### **Downtown Revitalization Projects**

Downtown Revitalization projects are similar to those described above in that the environmental review includes a release for private match monies and a release for public monies. It is crucial that no private match monies be spent prior to the completion of the environmental review, as they cannot be counted toward the pledged match. Once the environmental review is complete, the private match may be released and work can begin. Once a project is awarded and a funding approval is fully executed, the public monies may be released.

### **Microenterprise Projects**

Each grantee must complete a blanket environmental review, determine a Finding of No Significant Impact (FONSI) or a Finding of Categorical Exclusion, and publish the findings along with the Intent to Request Release of Funds. Section 106 State Historic Preservation Office (SHPO) clearance is not necessary to obtain a release of funds for the grantee. However, before the grantee releases loan funds to a microenterprise, each loan project is required to have a complete environmental assessment and SHPO clearance. No publication is required unless a determination is made that the project will have a significant impact on the environment, such as construction or rehabilitation to a building.

### **Memorandum of Agreement**

Grantees are required to take into account the effects of their project activities on historic properties through Section 106 of the National Historic Preservation Act. Where it is possible to avoid adverse effects to a historic property, a determination of no adverse impact may be made. If avoidance of adverse effects is not feasible, an agreement is usually reached on measures wholly or in part by the Historic Preservation Office and the grantee to mitigate the adverse effects. Once agreed upon, such measures are entailed in a Memorandum of Agreement (MOA) and implemented. (Example: An ADA project involving a historic courthouse sometimes requires a MOA.) Please be advised that it is not the obligation of CDBG to negotiate the terms of the MOA. However, CDBG will provide technical assistance if necessary.

## **OBJECTIONS TO RELEASE OF FUNDS**

The Missouri Department of Economic Development will not approve the Request for Release of Funds before 15 calendar days have elapsed from the time of receipt of the Request for Release of Funds and Certification. All objections must be received by DED within the 15-day period. DED will consider objections claiming a grantee's noncompliance with environmental requirements based on any of the grounds listed below. These are the only bases upon which DED will not approve the Request for Release of Funds and Certification.

- The certification was not in fact executed by the grantee's certifying officer.
- The grantee has failed to make a finding that the project had either a significant impact or no significant impact.
- The grantee has omitted one or more of the steps for the preparation and completion of an environmental assessment.
- Another federal agency has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.
- The grantee has omitted one or more of the steps for the preparation and completion of an Environmental Impact Statement.
- No opportunity was given to the Advisory Council on Historic Preservation or its Executive Director to review the effect of the project on a property listed on the National Register of Historic Places, or found to be eligible for such listing by the Secretary of the Interior.
- With respect to a project where the environmental circumstances cause a reevaluation of assessment findings, the use of prior environmental impact statements, or the use of supplemental impact statement, the grantee has failed to include in the Environmental Review Record (ERR) the written decision required, or its decision is not supported by facts specified by the objecting party.

If no objections are received, DED will issue a Notice of Removal of Grant Conditions (Exhibit E-8) or a Notice of Release of Environmental Requirements (for Private Monies Only) for CDBG economic development projects (Exhibit E-9).

## SUMMARY OF APPLICABLE ENVIRONMENTAL LAWS AND REGULATIONS

A complete summary of the procedures and requirements of applicable Federal laws and regulations is contained in Exhibit E-17. The following sections summarize the processes of carrying out the most common applicable environmental requirements. Please note that all non-exempt activities must complete the Historic Preservation requirements.

### Historic Preservation

Section 106 of the National Preservation Act of 1966 requires a recipient of Federal funds to take into account the effects of the recipient's project on properties included or eligible for inclusion in the National Register of Historic Places. The Historic Preservation staff may determine that a cultural resource survey should be conducted. Exhibits E-14 and E-15 contain lists of professional architectural and archaeological contractors for Missouri.

The historic clearance of the entire project must operate within a \$5,000 limit of CDBG funds, whether it is a public facility grant needing an archeological survey or a neighborhood development grant needing individual structure and/or neighborhood surveying. Any costs incurred above this amount will be the responsibility of the grantee, in conjunction with the State Historic Preservation Office. All procurement must be carried out as required by CDBG regulations, if we are paying for any service regarding the SHPO clearance.

The Section 106 Project Information Forms (Exhibit E-10), developed by the State Historic Preservation Office (SHPO), Missouri DNR, assists the Historic Preservation Program (HPP) staff in reviewing projects in a standardized way. Public participation is a mandated part of the Section 106 process; therefore, grantees may also want to consult with local historical groups and other appropriate organizations and individuals in order to help gather information about possible historic properties, which may be affected by their projects.

Sample Section 106 Project Information Forms (PIF) for a public facility project and a neighborhood development project are displayed in Exhibit E-11 and Exhibit E-12, respectively. All forms should be complete, detailed, and clear, including photographs, a USGS topographic map, and a project map (if necessary) with the area of the grant clearly marked and the streets named. Projects may have both archaeological and structural components. HPP staff must have detailed maps and information to determine if a project area has been previously assessed or if a cultural resources survey will be needed.

New procedures have been developed for SHPO review of **Neighborhood Development Grants**. For these grants, the recipient should photograph each structure in the target area, then label and key the photographs to a project map. If there is potential for a historic district or individual eligibility to the National Register of Historic Places, a completed Section 106 Property Information Form will be requested by the HPP. If no part of the target area qualifies as a historic district and there are no individually eligible structures, the entire project may be cleared with one letter. If it appears a district may be present or one or more structures are individually eligible, HPP will request more information.

After completing the project information form, it and any accompanying documentation should be mailed to the address given at the bottom of the second page. Review will be completed within 30 days of the receipt of the form. Contact SHPO at: Historic Preservation Program, Missouri Department of Natural Resources, PO Box 176, Jefferson City, MO 65102. Questions should be directed to Review and Compliance at 573/751-7858.

## **Floodplains and Wetlands**

If a project is located in a base floodplain (100 year flood plain or 500 year flood plain if it is considered a critical action - critical actions are those for which even a slight chance of flooding would be too great) or wetland, two public notices must be published in the non-legal section of a general circulation newspaper. The Early Public Notice identifies that the project is located in the floodplain or wetland, the specific location of the project, the number of acres of floodplain or wetland included, and a fifteen-day comment period. After the current period has elapsed, and all the comments received are taken into consideration, the grantee shall publish a Notice of Explanation stating that the project will take place in a floodplain or wetland, that the project cannot be undertaken in any other location, and specifics of all alternatives considered. Exhibit E-16 contains examples of the Early Public Notice and the Notice of Explanation.

## **Farmland Protection**

The Farmland Protection Policy Act of 1981 was enacted in order to minimize the extent to which Federal programs contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and assure the administration of Federal programs that they are compatible with state and local efforts to preserve farmland. Only farmland not already in or committed to urban development or water storage need comply with the Act.

The grantee shall make a request to the USDA Soil and Conservation Service (SCS) using form AD1006, the Farmland Conversion Impact Rating Form (this form may be obtained from your local or State SCS office). The SCS will make a determination of the farmland type (e.g., prime, unique, or of state or local importance) in order to assess whether the site is subject to the Act. If the SCS determines that the site is subject to the Act, the SCS will measure the Relative Value Rating and apply the twelve Site Assessment Criteria to assess whether or not the proposed site will convert farmland unnecessarily.

A site can receive a maximum of 260 points. Generally, USDA recommends that sites with 160 points or less be given minimal protection. The Act encourages grantees to consider the effects of a federally assisted project on farmland conversion; however, the final decision belongs to the grantee.



## **SUMMARY OF ENVIRONMENTAL REVIEW**

- An Environmental Review Record (ERR) must be maintained for all projects. The ERR must contain all documentation associated with the environmental review process.
- Exempt activities are not required to satisfy environmental laws and regulations.
- Categorically excluded activities are exempt from NEPA, but are not necessarily exempt from other applicable environmental laws and regulations.
- Submit a document claiming categorical exclusion and receive a categorical exclusion concurrence letter from CDBG Environmental Review Specialist
- Projects that are neither Exempt nor Categorically Excluded Not Subject to other Federal laws or authorities must undergo an environmental assessment (EA) or an Environmental Impact Statement (EIS).
- Submit EA or EIS to CDBG field representative for review.
- Receive EA review letter and incorporate any comments.
- All non-exempt activities require Historic Preservation Review.
- Categorically excluded projects require the publication and dissemination of a NOI/RROF with a 7-day local comment period.
- A project for which the EA concludes with a Finding of No Significant Impact (FONSI) requires the publication and dissemination of a Combined Notice (FONSI and NOI/RROF) with a 15-day local comment period.
- Always submit the Request for Release of Funds and Certification to CDBG with the affidavit of publication, and any other applicable environmental requirements, such as floodplain notices.
- All comments received as the result of any publication or dissemination must be fully documented in the ERR as well as the grantee's response to such comments.
- Any significant changes in a project requires the reassessment of the project impacts, new findings and public notices prepared, and a new Request for Release of Funds and Certification submitted to CDBG.

## EXHIBIT E-1

### FINDING OF CATEGORICAL EXCLUSION

#### CATEGORICAL EXCLUSION, NOT SUBJECT TO RELATED STATUTORY AUTHORITIES

Certain CDBG funded activities, which do not have a physical impact, require a grantee, as defined at 24 CFR Part 58.2, to determine whether the proposed activity is Categorically Excluded from the National Environmental Policy Act of 1969 (NEPA), as amended, and not subject to the environmentally-related statutory authorities listed at 24 CFR Parts 58.5.

This form provides a grantee with a format to make this determination. A description of the activity (or project) should be attached to this form, and the documentation maintained in the Environmental Review Record (24 CFR Part 58.38). HUD's environmental regulation (24 CFR Part 58) should also be consulted as necessary. Check a **single box** that best describes or fits the proposed activity. Submit the completed form to the CDBG Environmental Review Specialist for concurrence.

- ☐ Tenant-based rental assistance (**58.35(b)(1)**).
- ☐ Supportive services (**58.35(b)(2)**), including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, and short-term payments for rent/mortgage/utility costs.
- ☐ Operating costs (**58.35(b)(3)**), including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment, and other incidental costs.
- ☐ Economic development activities (**58.35(b)(4)**), including, but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses, and similar costs not associated with construction or expansion of existing operations.
- ☐ Activities to assist homeownership of existing or "new dwelling units not assisted with Federal funds" (**58.35(b)(5)**), including closing costs and down payment assistance to home buyers, interest buy-downs, and similar activities that result in the transfer of title to a property.
- ☐ Affordable housing predevelopment costs (**58.35(b)(6)**), including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

Additionally, does the proposed activity entail the purchase or sale of a property?

- ☐ YES
- ☐ NO

If yes, and the property is located in an Airport Runway Clear Zone, the Responsible Entity shall provide notification to the prospective buyer in accordance with the procedures of 24 CFR Part 58.6(c). Documentation as to compliance with the following questions must be attached by the Responsible Entity.

Is the property located within an Airport Runway Clear Zone in accordance with the provisions of 24 CFR Part 58.6(c)?

☐ YES

☐ NO

If yes, has the grantee provided notification to the property Clear Zone as defined in 24 CFR Part 51?

☐ YES

☐ NO

☐ NA

In accordance with the provisions of 24 CFR 58.35(b), the grantee cited below has determined that the subject CDBG-assisted activity (or program), a description of which is attached, is Categorically Excluded from the National Environmental Policy Act of 1969 (NEPA), as amended, and Not Subject to the Related Part 58.5 Statutory Authorities. Furthermore, the grantee has determined that Part 58.6 requirements have been met in regard to the subject activity (or program).

Grantee (City/County): \_\_\_\_\_

Date: \_\_\_\_\_

Determination By (Preparer): \_\_\_\_\_

(print name)

\_\_\_\_\_  
(signature)

## EXHIBIT E-2

### FINDING OF CATEGORICAL EXCLUSION *SUBJECT TO REVIEW*

It is the finding of the \_\_\_\_\_ (insert city or county) \_\_\_\_\_ that all activities in the \_\_\_\_\_ (insert project # or project name if proposed) \_\_\_\_\_ are categorically excluded based upon:

**58.35 [a] Categorical Excluded activities under NEPA but SUBJECT to review under 58.5:**

1. Acquisition, repair, improvements, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when facilities/improvements will have same use without changes in size or capacity of more than 20%.
2. Projects to remove barriers restricting mobility and accessibility to elderly and handicapped person.
3. Rehab of buildings and improvements upon these conditions: unit density not changed more than 20%; project does not change land use from residential to non-residential; estimated cost of rehab is less than 75% of total cost of replacement after rehab; or activity does not change land use from non-residential to residential, commercial to industrial, or from one to another.
4. Acquisition or disposition of existing structure, or acquisition of vacant land, provided that the structure or land acquired or disposed of will retain the same use.

Listed below are the activities determined categorically excluded in the project:

- 1.
- 2.
- 3.

Findings and conclusions made by:

\_\_\_\_\_  
Environmental Review Officer

\_\_\_\_\_  
Date

**Please submit your finding to:** CDBG  
Environmental Review Specialist  
P.O. Box 118  
Jefferson City, MO 65102

**Or by fax to:** 573/526-4157

## EXHIBIT E-3

### CDBG ENVIRONMENTAL ASSESSMENT

**Project Name and Number:** \_\_\_\_\_

**Project Location/Address:** \_\_\_\_\_

**Description of Proposed Activity (Please attach any additional documentation):**

**Environmental Finding (to be made AFTER the environmental analysis is completed): (check one only)**

- ☐ The Request for Release of Funds for the proposed project is not an action that may significantly affect the quality of human environment. List any conditions required before release of funds can be granted, if applicable.
- ☐ The Request for Release of Funds for the proposed activity is an action that may significantly affect the quality of the human environment. An Environmental Impact Statement (EIS) is required.
- ☐ The proposed activity should not be undertaken. Even after appropriate modification to the proposal, there exists unacceptable environmental impacts to the human environment that are unavoidable.

\_\_\_\_\_  
Signature of Environmental Review Officer Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Environmental Certifying Officer Name and Title

\_\_\_\_\_  
Date

If the proposed activity/project is **not** determined Exempt (as defined in 24 CFR Part 58.34), or Categorically Excluded Not Subject To Related Statutory Authorities (24 CFR Part 58.5), then completion of this form is **required**. In completing the attached assessment, you will be complying with requirements set forth in 24 CFR Part 58 as to the review of how your activities/projects will effect the environment.

- Contact the CDBG Environmental Review Specialist at 573/751-3600 for assistance in completing the assessment.
- Complete the Field Notes Section and attach additional documentation as applicable. Submit a copy of this document to your CDBG Field Representative. You will then be ready to publish your applicable public notice.
- Related web sites are offered to provide more information on the impact area, but may not necessarily supply the answer specific to the project activities being assessed.

**THINGS TO REMEMBER:** Use “Qualified” data sources. Do not leave blank spaces. Include dates of correspondence or consultation of data sources. If “N/A” is determined anywhere in the evaluation, explain why and attach all additional compliance documentation as applicable.

# CDBG ENVIRONMENTAL ASSESSMENT

## FIELD NOTES SECTION

Areas of Statutory and Regulatory Compliance	
<b>1. HISTORIC PROPERTIES (36 CFR Part 800):</b>	
1. Is the property listed or eligible for listing on the National Register of Historic Places?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the property located within or directly adjacent to a historic district?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Does the property's area of potential effects include a historic district or property?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If you answer yes to any of the above questions, consult with the SHPO and comply with 36 CFR Part 800. Follow guidelines in Attachment A.	
Comments:	
Source Documentation:	
<b><u>SHPO Clearance Letter Date:</u></b>	
<b>State Historic Preservation Office (SHPO)</b> 100 East High Street, PO Box 176 Jefferson City, MO 65102 Phone: 573/751-7860 Toll Free: 800/361-4827	<b>Related Web Sites:</b> <a href="http://www.achp.gov">www.achp.gov</a> - Advisory Council on Historic Preservation <a href="http://www.dnr.state.mo.us/shpo/index.html">www.dnr.state.mo.us/shpo/index.html</a> - State Historic Preservation Office
<b>2. FLOODPLAIN MANAGEMENT (EO 11988, 24 CFR Part 55):</b>	
1. Is the project located within a designated 100-year floodplain?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Identify the FEMA flood map or Flood Insurance Rate Map used to make this finding.	
Community Name/Number:	
Map Panel Number and Date of Map Panel:	
2. Does the grantee participate in the National Flood Insurance Program?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Is the grantee in good standing with the National Flood Insurance Program?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes to question #1, please see Attachment B for procedures for making determinations on Floodplains Management.	
Comments:	
Source Documentation:	
<b>Federal Emergency Management Agency (FEMA)</b> FEMA Region VII 2323 Grand Boulevard, Suite 900 Kansas City, MO 64108 Phone: 816/283-7016	<b>Related Web Sites:</b> <a href="http://www.sema.state.mo.us/semapage.htm">www.sema.state.mo.us/semapage.htm</a> – State Emergency Management Agency <a href="http://www.fema.gov/mit/tsd/index.shtm">www.fema.gov/mit/tsd/index.shtm</a> – FEMA – Printable Maps

## CDBG ENVIRONMENTAL ASSESSMENT

<b>3. WETLANDS PROTECTION (EO 11990, 24 CFR Part 55):</b>		
1. Are there drainage ways, streams, or rivers on or near the site?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Are there ponds, marshes, bogs, swamps, or other wetlands on or near the site?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. For projects involving new construction and /or filling:  Is the project located within a wetland designated on a National Wetlands Inventory map of the Dept. of the Interior County NRCS office?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
EO 11990, Protection of Wetlands, discourages Federal funding of new construction or filling in of wetlands, and compliance is required in the wetlands decision-making process. Use 24 CFR Part 55, January 1, 1990, for wetland procedures.		
<b>Please see Attachment B for procedures for making determinations on Wetlands Management.</b>		
Comments:		
Source Documentation:		
<b>U.S. Fish and Wildlife</b> 601 East 12 <sup>th</sup> St, Rm 746 Kansas City, MO 64106 Phone: 816/983-3415 Or Ecological Field Office 608 Cherry, Room 200 Columbia, MO 65201 Phone: 573/876-1911	<b>U.S. Army Corps of Engineers</b> 441 G Street NW Washington DC 20314 Phone: 202/761-0008  <b>Natural Resources Conservation Office</b> Phone: 573/876-0900	<b>Related Web Sites:</b> <a href="http://www.nwi.fws.gov/">www.nwi.fws.gov/</a> - U.S. Fish and Wildlife – Wetlands Inventory <a href="http://www.usace.army.mil/public.html#Regulatory">www.usace.army.mil/public.html#Regulatory</a> - Wetlands and Waterways Regulation and Permitting <a href="http://www.mo.nrcs.usda.gov/fosamap.html">www.mo.nrcs.usda.gov/fosamap.html</a> - County Information
<b>4. AIRPORT CLEAR ZONES (24 CFR Part 51, Subpart D):</b>		
This issue pertains to projects involving residential new construction or major rehabilitation, conversion of non-residential land to residential use, or the financing or acquisition of property near an airport.		
1. Is the project within 3,000 feet from the end of a civil airport runway?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is the project within 2 ½ miles from the end of a military airfield runway?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
If the answer is yes to either question, comply with 24 CFR Part 51, Subpart D – contact the CDBG Environmental Review Specialist.		
Comments:		
Source Documentation:		
<b>Regulation:</b> <a href="http://www.hud.gov/offices/cpd/energyenviron/environmenta/lawsandregs/regs/index.cfm">www.hud.gov/offices/cpd/energyenviron/environmenta/lawsandregs/regs/index.cfm</a> - Sub-part D <b>Related Web Site:</b> <a href="http://www.modot.mo.gov/othertransportation/airportdirectorylist.htm">http://www.modot.mo.gov/othertransportation/airportdirectorylist.htm</a> - Airport Directory		

## CDBG ENVIRONMENTAL ASSESSMENT

<b>5. ENDANGERED SPECIES (50 CFR Part 402):</b>	
<p>If your project involves acquisition, new construction, site clearance, public facilities, and improvements, U.S. Fish and Wildlife must be contacted to determine the presence of endangered or threatened species. If U.S. Fish and Wildlife determines the presence of endangered or threatened species, contact the CDBG Environmental Review Specialist.</p>	
<p>Comments:</p>	
<p>Source Documentation:</p>	
<p><b>U.S. Fish and Wildlife Service – Region 3</b>          Chief, Ecological Services Operations          Bishop Henry Federal Building          One Federal Drive          Ft. Snelling, Minnesota 55111          Phone: 612/713-5360</p>	<p><b>Related Web Sites:</b>  <a href="http://midwest.fws.gov/endangered/">http://midwest.fws.gov/endangered/</a> - US Fish and Wildlife – Endangered Species List  <a href="http://www.conservation.state.mo.us/nathis/endangered">http://www.conservation.state.mo.us/nathis/endangered</a> - Missouri Department of Conservation</p>
<b>6. WILD and SCENIC RIVERS (36 CFR Part 297):</b>	
<p>1. Does the project lie within one mile of a designated wild or scenic river?</p>	<p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p>
<p>2. Does the project involve new construction, major rehabilitation, land conversion, or acquisition of undeveloped land?</p>	<p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p>
<p>If yes to <i>both</i> questions, contact the National Park Service regional office and report it to the CDBG Environmental Review Specialist.</p>	
<p>Comments:</p>	
<p>Source Documentation:</p>	
<p><b>National Park Service</b>          Midwest Region          1709 Jackson Street          Omaha, NE 68102          Phone: 402/221-3471</p>	<p><b>Related Web Site:</b>  <a href="http://www.nps.gov/rivers/">www.nps.gov/rivers/</a> - National Park Service</p>



## CDBG ENVIRONMENTAL ASSESSMENT

<b>7. FARMLAND PROTECTION (7 CFR Part 658):</b>	
1. Does the project involve new construction or acquisition of undeveloped land?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, contact the USDA NRCS and report this to the CDBG Environmental Review Specialist.	
Comments:	
Source Documentation:	
<b>Missouri State Office</b> USDA Natural Resource Conservation Service Parkade Center Suite 250, 601 Business Loop 70 West Columbia, MO 65203 Phone: 573/876-9411	<b>Related Web Site:</b> <a href="http://www.info.usda.gov/nrcs/fpcp/fppa.htm">www.info.usda.gov/nrcs/fpcp/fppa.htm</a> - USDA Farmland Protection Policy Act
<b>8. NOISE (24 CFR Part 51, Subpart B):</b>	
1. Does the project involve residential uses or involve noise sensitive uses, such as hospitals or nursing homes?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the project located near a major noise source (i.e., civil airport (within 5 miles), military air field (within 15 miles), or major highways or busy roads (within 1,000 feet), or railroads (within 3,000 feet))?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If the answer to both questions is yes, a noise assessment is required for proposed new construction and substantial reconstruction. Contact the CDBG Environmental Review Specialist for assistance. For more information on the project site, contact the community's public works department, respective regional planning commission, or railroad company if a railroad is located near or in the project site.	
<b>If noise sensitive uses are proposed, review the noise restrictions outlined in Attachment C.</b>	
Comments:	
Source Documentation:	
<b>9. THERMAL OR EXPLOSIVE HAZARDS (24 CFR Part 51, Subparts C and D):</b>	
1. Are institutional, commercial, or industrial facilities handling explosives or fire-prone material such as liquid propane, gasoline, or other storage tanks adjacent to or visible from the project site?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, contact the CDBG Environmental Specialist.	
Comments:	
Source Documentation:	
<b>Department of Natural Resources, PO Box 176, Jefferson City, MO 65102, Phone: 573/751-3176</b>	

## CDBG ENVIRONMENTAL ASSESSMENT

Environmental/Program Factors		
<b>10(a). WATER QUALITY – Aquifer Protection:</b>		
This issue pertains to projects involving new construction, conversion of land use, or the acquisition of property.		
1. Is the project located within an area of EPA-designated sole source aquifer?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. If yes, will the project utilize existing municipal water, sewer lines, and facilities?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA	
Comments:		
Source Documentation:		
<b>Related Web Site:</b> <a href="http://www.epa.gov/OGWDW/swp/sumssa.html">www.epa.gov/OGWDW/swp/sumssa.html</a> - US Environmental Protection Agency (EPA) listing of designated sole source aquifers.		
<b>10(b). WATER QUALITY – Water Supply:</b>		
1. Will the project involve drilling a well?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. If yes, is the location subject to rapid water withdrawal problems that will change the depth of the water table?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
3. Will the project use groundwater for its water supply?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. If yes, has the source been investigated to ensure no contamination?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
5. If there are septic systems in use around the project location, have they been properly installed and maintained?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
Comments:		
Source Documentation:		
<b>US Geological Survey</b> Water Resources Division 1400 Independence Road, MS-100 Rolla, MO 65401 Phone: 573/308-3664  <b>MO Dept. of Natural Resources</b> PO Box 176 Jefferson City, MO 65102 Phone: 573/751-2867	<b>MO State Office</b> USDA Natural Resource Conservation Service Parkade Center Suite 250 601 Business Loop 70 West Columbia, MO 65201 Phone: 573/876-9411  <b>MO Dept. of Health</b> PO Box 570 Jefferson City, MO 65102 Phone: 573/751-6400	<b>Related Web Sites:</b> <a href="http://www.dnr.state.mo.us/water.htm">www.dnr.state.mo.us/water.htm</a> – DNR Water Issues <a href="http://cnie.org/nle/crsreports/water/h2o-17.cfm">http://cnie.org/nle/crsreports/water/h2o-17.cfm</a> – Safe Drinking Water Act <a href="http://mo.waterdata.usgs.gov/nwis/sw">http://mo.waterdata.usgs.gov/nwis/sw</a> – MO USGS Water Data <a href="http://www.mo.nrcs.usda.gov/soilsur_intro.html">www.mo.nrcs.usda.gov/soilsur_intro.html</a> – USDA Soil Survey Information

## CDBG ENVIRONMENTAL ASSESSMENT

<b>11. AIR QUALITY – Clean Water Act:</b>		
1. Is the project located in an EPA-designated non-attainment or maintenance area for one or more of six “criteria” air pollutants? If yes, contact the CDBG Environmental Review for assistance.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Does the project require an installation permit, operating permit, or indirect uses permit in accordance with the Clean Air Act and follow local pollution control agency rules?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Will the project establish a trend, which, if continued, may lead to violation of air quality standards in the future?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Are there air quality concerns in the vicinity of the project that could have a negative impact?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Comments:		
Source Documentation:		
<b>U.S. Environmental Protection Agency (EPA)</b>  Region VII 901 North 5 <sup>th</sup> Street Kansas City, KS 66101 Phone: 913/236-2800	<b>MO Dept. of Natural Resources</b>  PO Box 176 Jefferson City, MO 65102 Phone: 573/526-3315	<b>Related Web Sites:</b> <a href="http://www.epa.gov/oaqps/greenbk">www.epa.gov/oaqps/greenbk</a> – U.S. EPA designated non-attainment and maintenance areas <a href="http://www.epa.gov/oar/oaqps/">www.epa.gov/oar/oaqps/</a> - US EPA Air Quality Planning and Standards <a href="http://www.dnr.state.mo.us/alpd/apcp/homeapcp.htm">www.dnr.state.mo.us/alpd/apcp/homeapcp.htm</a> – MO DNR Air Pollution Control Program
<b>12. TOXIC SITES (Site contamination or toxic substances):</b>		
This issue pertains to projects involving new construction, conversion of non-residential land to residential use, major rehabilitation, and acquisition of land.		
1. Has a Phase 1 (ASTM) Report been submitted and reviewed?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
If the answer is NO, is a Phase 1 (ASTM) Report needed?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA	
2. Is the project site an EPA Superfund (CERCLA) site?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Have hazardous substances, pollutants, or contaminants been stored or dumped on the project site?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Is the project site near an industry disposing of chemicals or hazardous waste?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Is the site located within 3,000 feet of a toxic or solid waste landfill site?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Is the site adjacent to or does it contain above-ground or underground storage tanks?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Comments:		
Source Documentation:		
<b>U.S. Environmental Protection Agency (EPA)</b>  Region VII, 901 North 5 <sup>th</sup> Street Kansas City, Kansas 66101 Phone: 913/236-2800	<b>Related Web Sites:</b> <a href="http://www.epa.gov/superfund/about.htm">www.epa.gov/superfund/about.htm</a> – EPA Superfund <a href="http://www.epa.gov/superfund/action/law/cercla.htm">www.epa.gov/superfund/action/law/cercla.htm</a> – EPA CERCLA <a href="http://map3.epa.gov/enviromapper/index.html">http://map3.epa.gov/enviromapper/index.html</a> – EPA Mapping Feature	

## CDBG ENVIRONMENTAL ASSESSMENT

<b>13. ENVIRONMENTAL JUSTICE (EO 12898):</b>	
1. Is the project located in a predominantly minority or low-income neighborhood?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. If the project has the potential to cause adverse environmental effects, could the neighborhood disproportionately suffer from the adverse environmental impacts?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
If the answer is yes to both questions, comply with EO 12898, Federal Actions to Address Environmental Justice, and contact the CDBG Environmental Review Specialist.	
Comments:	
Source Documentation:	
<b>U.S. Environmental Protection Agency (EPA)</b> Region VII, 901 North 5 <sup>th</sup> Street Kansas City, Kansas 66101 Phone: 913/236-2800	<b>Related Web Sites:</b> <a href="http://www.epa.gov/swerosps/ej/">www.epa.gov/swerosps/ej/</a> - EPA Environmental Justice <a href="http://www.scorecard.org/community/ej-index.tel">www.scorecard.org/community/ej-index.tel</a>
<b>14. CONFORMANCE WITH COMPREHENSIVE PLANNING AND ZONING:</b>	
1. Is the project consistent with local, regional, or state comprehensive plans, policies, ordinances, and goals?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Does the proposed project comply with existing zoning regulations?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Does the community think the proposed project will be incompatible with existing users?	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Will the proposed project contribute to urban sprawl?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:	
Source Documentation:	
Contact the city, county, or regional planning commission for more information.	
<b>15. SOCIOECONOMIC:</b>	
1. Will the proposed project significantly alter the demographic characteristics of the community?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Will the project severely alter residential, commercial, or industrial uses?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Will the project directly displace individuals or families, or businesses? If the answer is yes to this question, comply with the Uniform Relocation Act.	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Will the project either significantly increase or decrease employment opportunities?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:	
Source Documentation:	
Contact the city or county for more information.	

## CDBG ENVIRONMENTAL ASSESSMENT

<b>16. COMMUNITY FACILITIES AND SERVICES:</b>	
1. Will there be an additional number of children/youth in the proposed development that exceeds capacity of the existing facility (schools, day care, community/youth center, etc.)?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
2. Are non-emergency and emergency health care services located within a reasonable proximity to the proposed project?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Are social services currently located in close proximity to the prospective users/residents?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Comments:	
Source Documentation:	
Contact the city or county for more information.	
<b>17. WASTEWATER:</b>	
1. Will the existing or planned wastewater treatment system adequately service the area?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Will the wastewater treatment system proximity negatively affect the project?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. If on-site systems are planned, are the lot sizes and soils suitable for this use?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA
Comments:	
Source Documentation:	
<b>MO Dept. of Natural Resources (DNR)</b> Solid Waste Management Program PO Box 176, Jefferson City, MO 65102 Phone: 573/751-7428	<b>Related Web Sites:</b> <a href="http://www.dnr.state.mo.us/wpscd/wpcp/homewpcp.htm">www.dnr.state.mo.us/wpscd/wpcp/homewpcp.htm</a> – Water Pollution Control Program <a href="http://www.dnr.state.mo.us/alpd/swmp/homeswmp.htm">www.dnr.state.mo.us/alpd/swmp/homeswmp.htm</a> – DNR Solid Waste Management Program

## CDBG ENVIRONMENTAL ASSESSMENT

<b>18. SOLID WASTE:</b>		
1. Will the existing waste disposal system adequately service the proposed project?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. How far is the servicing landfill? Will its proximity negatively affect the project?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Will the owners/renters of the proposed project have to pay service costs?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. If so, will it create a financial hardship?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA	
Comments:		
Source Documentation:		
<b>For more information, contact your solid waste management district.</b>  <b>Missouri Dept. of Natural Resources</b> Solid Waste Management Program PO Box 176 Jefferson City, MO 65102 Phone: 573/751-3443	<b>Related Web Site:</b>  <a href="http://www.dnr.state.mo.us/alpd/swmp/homeswmp.htm">www.dnr.state.mo.us/alpd/swmp/homeswmp.htm</a> – DNR Solid Waste	
<b>19. STORM WATER:</b>		
1. Will the existing or planned storm water system adequately service the proposed project?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. If no storm water system exists, will the project promote storm water run-off?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA	
If yes, consult with the project engineer about ways to minimize the impact as well as erosion control measures.		
Comments:		
Source Documentation:		
<b>Contact the city or county, or project engineer, for more information.</b>	<b>Related Web Sites:</b>  <a href="http://www.dnr.state.mo.us/magazine/2001-02_winter/water_runoff.htm">www.dnr.state.mo.us/magazine/2001-02_winter/water_runoff.htm</a> – DNR Storm Water Run-off  <a href="http://cfpub.epa.gov/npdes/home.cfm?program_id=6">http://cfpub.epa.gov/npdes/home.cfm?program_id=6</a> – EPA Storm Water Program	

## CDBG ENVIRONMENTAL ASSESSMENT

<b>20. POLICE, FIRE, AND MEDICAL:</b>		
1. Are emergency health care providers located within reasonable proximity to the proposed project?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Are police services located within reasonable proximity to the proposed project?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Is fire-fighting protection, municipal or volunteer, adequate and equipped to service the project?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Comments:		
Source Documentation:		
<b>Contact the city or county for more information.</b>		
<b>21. PARKS/RECREATION AND SOCIAL SERVICES:</b>		
1. Are parks and play spaces available near by?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Will social services be available near by for residents of the proposed project?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Comments:		
Source Documentation:		
<b>Related Web Site: <a href="http://www.mo-apa.org/Links/resources.htm">www.mo-apa.org/Links/resources.htm</a> – American Planning Association – Missouri Chapter</b>		
<b>22. TRANSPORTATION:</b>		
1. Is adequate public transportation available to individuals in the project area?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Will the project create any transportation safety issues?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Comments:		
Source Documentation:		
<b>Related Web Site: <a href="http://www.modot.state.mo.us/lrtd/">www.modot.state.mo.us/lrtd/</a> - Missouri Dept. of Transportation Long Range Plans</b>		

## **CDBG ENVIRONMENTAL ASSESSMENT**

### **CITIZEN PARTICIPATION**

1. Have the residents of the area, which will be affected by the proposed project, been made aware of the proposal (e.g., public hearings, published notices, etc.)? Explain.
2. Based on the most current information available, is there any evidence of actual or potential controversy on environmental issues as they relate to project activities? Explain.

### **PROJECT MODIFICATIONS AND ALTERNATIVES**

Explain any possible changes or major alternatives to the proposed activity that could be implemented to enhance environmental quality or reduce potential adverse environmental impacts.

### **SUMMARY OF FINDINGS AND CONDITIONS:**

1. Summarize the probable adverse and beneficial impacts of the proposed activity on the environment and of the environment on this project. (Include those impacts that will be temporary and occur during construction.)
2. Have any additional environmental studies been performed or are required (e.g., cultural resource survey)? Explain.
3. Explain any mitigation measures taken or other conditions required as a result of the assessment.



# **CDBG ENVIRONMENTAL ASSESSMENT**

## **ATTACHMENT A**

### **PAGE 1 OF 2**

## **HISTORIC PRESERVATION**

### **Protection of Historic Properties: National Historic Preservation Act (36 CFR Part 800)**

Federally funded activities are subject to the review requirements of Section 106 of the National Historic Preservation Act. The review process involves consultation with various agencies, groups, and individuals. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects, and seek ways to avoid, minimize, or mitigate any adverse effects on historic properties.

Historic properties are those properties that are listed on the National Register or are eligible for listing. A property is considered eligible when it meets specific criteria established by the National Park Service (36 CFR Part 63). Recipients are responsible for initiating the Section 106 review with State Historic Preservation Office (SHPO), located in the Department of Natural Resources (DNR).

SHPO has established forms and instructions to help the recipient through the Section 106 review process. These forms and instructions are included in this appendix and at the SHPO. If you have any questions about historic preservation requirements, contact SHPO at 573/751-7858. Under the National Historic Preservation Act (NHPA), an advisory council on historic preservation was established. This Federal agency oversees the Section 106 process. Recipients can learn more about the council's role, get copies of 36 CFR Part 800, and obtain other useful information about the Section 106 process on the Council's web site at [www.achp.gov](http://www.achp.gov).

The recipient must complete the Section 106 process "prior to approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license."

Below is a simplified documentation process to meet the Section 106 requirements. Use the steps below to determine if your project is an undertaking with the potential to cause effects to historic properties.

#### **Step 1: Determine the Area of Potential Effects (APE) (36 CFR Section 800.16(d))**

The APE is the surface and subsurface geographic area within which the undertaking may cause effects to historic properties if they exist. Usually it encompasses the project area including all easements, borrow areas, equipment and material storage, and staging areas. Also, take into account the excavation and other earthmoving activities, including 3-dimensional parameters (length, width, and depth) of the intended subsurface impacts. This information is normally included in the engineering plans and schematics for the project.

#### **Step 2: Identify Historic Properties Within the APE (36 CFR Section 800.4)**

The recipient shall make a reasonable and good faith effort to carry out appropriate identification efforts. These include:

- Conduct background research – consult SHPO
- Take oral history interviews – local historians
- Complete field surveys – only professionally qualified persons can conduct an evaluation and identification of historic properties
- Reference past planning, research, and studies – Gather information on the types and number of recorded archaeological sites within a 1-mile radius of the project APE. This can be done by contacting the State Archaeologist at 573/751-7857.

# CDBG ENVIRONMENTAL ASSESSMENT

## ATTACHMENT A

### PAGE 2 OF 2

#### Step 3: Results of Identification and Evaluation (36 CFR Section 800.4(d))

After evaluation, the recipient must determine if the project will affect historic properties by the undertaking. Based upon the evaluation one of the following findings must be made:

\_\_\_\_\_ **No Historic Properties Affected** – This means that either there are no historic properties present, or there will be no effect upon the historic properties by the undertaking. The agency official must provide appropriate documentation to the SHPO and notify consulting parties. Members of the public need not receive the notification, but the grantee must place its documentation in a public file prior to approving the undertaking and provide access to the information when requested by the public. Once adequate documentation is received, the SHPO has 30 days to object to the determination. The Council may also object on its own initiative within the time period. Lack of such objection within the 30-day period means that the agency has completed its Section 106 responsibilities.

\_\_\_\_\_ **Historic Properties Affected** – This means there are historic properties present and they will be effected by the undertaking, or that SHPO has objected to the agency's finding. The grantee must now determine if the undertaking will have an **adverse** effect on the historic property (36 CFR Section 800.5)

- **Adverse Effect** – An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. If the project meets this criterion, contact SHPO immediately (36 CFR Section 800.6).
- **No Adverse Effect** – If your project does not meet the above definition of an adverse effect, submit the documentation to the SHPO for comment. If the SHPO does not respond within the 30-day review period, then the grantee can consider that to be SHPO agreement with the finding.

## **ATTACHMENT B**

### **PROCEDURES FOR MAKING DETERMINATIONS ON FLOODPLAIN AND WETLAND MANAGEMENT**

#### **Floodplain and Wetland Management: Executive Order 11988 and Executive Order 11990 (24 CFR Part 55):**

CDBG grant recipients are required to protect the values and benefits of floodplains and wetlands. Recipients should reduce flood losses and wetland destruction by not conducting, supporting, or allowing projects to be located in floodplains or wetlands unless it is the only feasible alternative.

If it is determined that the proposed project must be located in the floodplain or wetland, then certain measures must be undertaken. These measures should minimize potential harm to beneficial floodplain and wetland values, reduce the hazard and the risk of flood loss, and minimize the impact of floods on human safety, health, and welfare. Prior to proceeding with a project in or effecting a floodplain or wetland, a recipient must comply with the requirements of Executive Orders 11988 and 11990. The recipient must complete an 8-step decision making process outlined in 24 CFR Part 55, Subpart C, Section 55.20. This 8-step process is as follows:

1. Determine if the proposed action is in a wetland or the 100-year floodplain (or in the 500-year floodplain for a critical action, i.e., actions for which even a slight chance of flooding would be too great). If the proposed action would not be conducted in these areas, then no further compliance with this part is required.
2. Notify the public of the intent to locate the proposed action in the floodplain or wetland. The notice, referred to as the Early Public Notice (Exhibit E-16), must be published at least once in a newspaper of widest circulation. The public must be given fifteen days to comment. This publication and comment period may coincide with the Combined Notice (Exhibit E-5) publication and comment period. The recipient must use this form, or an equivalent, to meet Federal requirements.
3. Identify and evaluate feasible alternatives to locating in the floodplain. This determination requires the recipient to consider whether the floodplain or wetland can be avoided either through selecting alternative sites, choosing alternative actions to serve the identical project objective, or taking no action.
4. Identify indirect or direct impacts associated with the occupancy or modification of the floodplain or wetland.
5. Identify methods to minimize the potential adverse impacts within the floodplain or wetland and restore and preserve its natural and beneficial value.
6. Reevaluate the alternatives, taking into account the identified impacts, the steps necessary to minimize these impacts, and the opportunities to restore and preserve floodplain values.
7. If the recipient determines the only feasible alternative is locating in the floodplain or wetland, a final public notice shall be published, referred to as the Notice of Explanation (Exhibit E-16). The notice will include the reason for locating the project in a floodplain or wetland, the alternatives that were considered, and any mitigation measures that are planned.
8. The proposed action can be implemented after steps 1 through 7 have been completed and all other requirements are met.

## ATTACHMENT C

### NOISE ASSESSMENT GUIDELINES

#### Noise: The Quiet Communities Act (24 CFR Part 51, Subpart B)

The Act establishes specific noise control requirements for CDBG-funded projects. Grant recipients must take into consideration the noise criteria and standards in the environmental review process and consider amenable actions when noise sensitive land development is proposed in noise exposed areas.

The prime concern of a CDBG environmental impact assessment for noise should be the effect of existing and projected noise levels on the proposed activities and facilities. **An assessment will be needed if housing and other sensitive uses are proposed and any of the following conditions are present:**

- Existing or proposed commercial or military airports within 15 miles of the site
- Roadways within 1,000 feet of the site with characteristics (e.g., high traffic levels, high speed, heavy trucks/bus usage, slope gradients, etc.) that would indicate high ambient vehicular noise levels.
- At-grade or elevated transit lines or railroads within 3,000 feet of the site
- Other significant noise sources (e.g., industrial/manufacturing facilities, power generating stations, etc.) in close proximity to the site

**If your project site meets any of the above listed criteria, please contact your project administrator and/or CDBG Environmental Review Specialist for further information and instructions.**

## EXHIBIT E-4

### NOTICE OF INTENT TO REQUEST A RELEASE OF FUNDS

City of Missouriipolis  
City Hall  
Missouriipolis, MO 65000  
Phone 573/111-1111

Date of Publication: August 1, 2003

TO ALL INTERESTED AGENCIES, GROUPS, AND PERSONS:

On or about August 9, 2003, the above-named City will request the Missouri Department of Economic Development to release Federal funds under Title I of the Housing and Community Development Act of 1974 (PL 93-383) for the following project:

West Side Water Line Replacement  
(Project Title or Name)  
Replace deteriorated water lines  
(Purpose or Nature of the Project)  
Missouriipolis, Mark Twain County, Missouri  
(Location-City, County, State of Project)  
Est \$256,000  
(Estimated Cost of Project)

An Environmental Review Record respecting the above project has been made by the above-named City that documents the environmental review of the project. This Environmental Review Record is on file at the above address and is available for public examination and copying, upon request. The City of Missouriipolis will undertake the project described above with funds provided by the Missouri Department of Economic Development under the state operated Community Development Block Grant Program for Non-Entitlement Areas under Title I of the Housing and Community Development Act of 1974 (as amended). The City of Missouriipolis is certifying to DED that the City of Missouriipolis and Mayor Joseph Farmer, in his official capacity as Mayor, consent to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to environmental reviews, decision making, and action and that these responsibilities have been satisfied. The legal effect of the certification is that upon its approval, the City of Missouriipolis may use the Block Grant funds, and DED will have fulfilled its responsibilities under the National Environmental Policy Act of 1969. DED will accept an objection to its approval, release of the funds, and acceptance of the certification only if it is on one of the following basis: (a) that the certification was not in fact executed by the chief executive officer or other officer of the applicant approved by HUD, or (b) that applicant's environmental review record for the project indicates omission of a required decision, finding, or step applicable to the project in the environmental review process. Objections must be prepared and submitted in accordance with the required procedure (24 CFR Part 58) and may be addressed to Missouri Department of Economic Development, P.O. Box 118, Jefferson City, MO 65102.

Objections to the release of funds on basis other than those stated above will not be considered by the State. Objections must be submitted within 15 days following the receipt of the Request For Release of Funds by the State.

Mayor Joseph Farmer  
City Hall, Missouriipolis, Missouri 65000  
(Name and address of Chief Executive Officer of Applicant)

## EXHIBIT E-5

### COMBINED NOTICE

#### NOTICE TO PUBLIC OF NO SIGNIFICANT IMPACT ON THE ENVIRONMENT AND NOTICE TO PUBLIC OF REQUEST FOR RELEASE OF FUNDS

---

(Name of Applicant)

---

---

(Date)

---

---

(Street, City, Zip Code)

---

---

(Telephone No)

---

TO ALL INTERESTED AGENCIES, GROUPS, AND PERSONS:

On or about       (date\*)       the above-named       (City/County)       will request the State of Missouri to release Federal funds under Title I of the Housing and Community Development Act of 1974 (PL 93-383) for the following project.

---

(Project Title or Name - Insert term multi-year, if applicable)

---

---

(Purpose or Nature of the Project)

---

---

(Location - City, County, State - of Project)

---

---

(Census Tract(s))

---

#### **Finding of No Significant Impact**

It has been determined that such request for release of funds will not constitute an action significantly affecting the quality of the human environment, and accordingly, the above-named (City/County) has decided not to prepare an Environmental Impact Statement under the National Environmental Policy Act of 1969 (PL 91-190).

The reasons for such decision not to prepare such Statement are as follows:

*(Set forth reasons for decision.)*

An Environmental Review Record respecting the project has been made by the above-named       (City/County)       which documents the environmental review of the project and more fully sets forth the reasons why such Statement is not required. This Environmental Review Record is on file at the above address and is available for public examination and copying upon request at Room between the hours of            and           . No further environmental review of such project is proposed to be conducted prior to the Request for Release of Federal funds.

### **Public Comments on Findings**

All interested agencies, groups, and persons disagreeing with this decision are invited to submit written comments for consideration by the \_\_\_\_\_ *(City/County)* to the \_\_\_\_\_ *(Office of the undersigned)* \_\_\_\_\_ *(other specified place)*. Such written comments must be received at \_\_\_\_\_ *(the address specified)* on or before \_\_\_\_\_ *(date)*. All such comments so received will be considered, and the \_\_\_\_\_ *(City/County)* will not request the release of Federal funds or take any administrative action on the within project prior to the date specified in the preceding sentence.

### **Release of Funds**

\_\_\_\_\_ *(Name of applicant)* will undertake the project described above with Block Grant funds from the State of Missouri under Title I of the Housing and Community Development Act of 1974. \_\_\_\_\_ *(Name of applicant)* is certifying to the State that \_\_\_\_\_ *(Name of applicant)* and \_\_\_\_\_ *(chief executive officer or other certifying officer of applicant approved by the State)*, in their official capacity as \_\_\_\_\_ *(office)*, consent to accept the jurisdiction of the Federal courts if an action is brought to enforce responsibilities in relation to environmental reviews, decisions-making and action, and that these responsibilities have been satisfied. The legal effect of the certification is that upon its approval \_\_\_\_\_ *(Name of applicant)* may use the Block Grant funds and the State will have satisfied its responsibilities under the National Environmental Policy Act of 1969.

### **Objections to State Release of Funds**

The State will accept an objection to its approval only if it is on one of the following bases: (a) that the certification was not, in fact, executed by the certifying officer or other officer of applicant approved by the State, or (b) that applicant's environmental review record for the project indicates omission of a required decision finding or step applicable to the project in the environmental review process. Objections must be prepared and submitted in accordance with the required procedure (24 CFR Part 58) and be addressed to the Missouri Department of Economic Development, P.O. Box 118, Jefferson City, MO 65102.

Objections to the release of funds on basis other than those stated above will not be considered by the State. Objections must be submitted within 15 days following the receipt of the Request of Funds by the State.

---

(Name of Certifying Officer or Applicant)

---

(Address)

\* No less than 15 days after date of publication (i.e., 16 days).

## **EXHIBIT E-6**

### **DISTRIBUTION LIST FOR ENVIRONMENTAL NOTICES**

In general, environmental notices should be sent to all interested parties, including:

- Local News Media
- Individuals and groups interested in your activities
- EPA Regional Offices
- Missouri Division of Environmental Quality
- State Historic Preservation Officer
- Other state and federal agencies, as appropriate

Following is a list of the names and addresses of state and federal agencies most likely to be appropriate for environmental notification. Those marked with an asterisk (\*) must receive all public notices. If the project is located within the 100-Year Flood Plain, the agency marked with a double asterisk (\*\*) must receive notice in addition to the previous required agencies.

\*U.S. Environmental Protection Agency, Region VII  
901 N 5<sup>th</sup> Street  
Kansas City, KS 66101-2907  
Phone: 913/551-27003  
Toll Free: 800/223-0425

\*\*U.S. Army Corps of Engineers  
601 East 12th Street, Room 746  
Kansas City, MO 64106  
Phone: 816/983-3415

\* State Historic Preservation Office  
Missouri Department of Natural Resources  
P.O. Box 176  
Jefferson City, MO 65102  
Phone: 573/751-7858

\*\*Fish and Wildlife Service  
Ecological Field Office  
101 Park DeVillie Drive, Suite A  
Columbia, MO 65203  
Phone: 573/234-2132

\*Missouri Department of Natural Resources  
Missouri Division of Environmental Quality  
P.O. Box 176  
Jefferson City, MO 65102  
Phone: 573/751-3315

\*\*Federal Emergency Mgmt. Agency  
2323 Grand Blvd., Suite 900  
Kansas City, MO 64108  
Phone: 816/283-7060



## EXHIBIT E-7

### Request for Release of Funds and Certification

U.S. Department of Housing  
and Urban Development  
Office of Community Planning  
and Development

OMB No. 2506-0087  
(exp. 11/30/2004)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

**Part 1. Program Description and Request for Release of Funds** (to be completed by Responsible Entity)

1. Program Title(s)	2. HUD/State Identification Number	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s)	5. Name and address of responsible entity	
6. For information about this request, contact (name & phone number)		
8. HUD or State Agency and office unit to receive request	7. Name and address of recipient (if different than responsible entity)	

**The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following**

9. Program Activity(ies)/Project Name(s)	10. Location (Street address, city, county, State)
11. Program Activity/Project Description	

---

**Part 2. Environmental Certification** (to be completed by responsible entity)

---

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal ☐ did ☐ did not require the preparation and dissemination of an environmental impact statement.
4. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
5. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
6. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

7. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
8. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

---

Signature of Certifying Officer of the Responsible Entity

Title of Certifying Officer

Date signed

X

Address of Certifying Officer

---

**Part 3. To be completed when the Recipient is not the Responsible Entity**

---

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

---

Signature of Authorized Officer of the Recipient

Title of Authorized Officer

Date signed

X

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

**EXHIBIT E-8**  
**STATE OF MISSOURI**  
**DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**  
**NOTICE OF REMOVAL OF GRANT CONDITIONS**

GRANTEE: \_\_\_\_\_ PROJECT # \_\_\_\_\_

Date request for release of funds and Certification received: \_\_\_\_\_

Date documentation of prior HUD removal of conditions received: \_\_\_\_\_

\_\_\_\_\_ No objections to the release of such funds or the Certification have been received, and a period of 15 days from and after receipt of such request and Certification has expired.

\_\_\_\_\_ All objections to the release of such funds and the Certification, which were received by the state within a period of 15 days from and after the receipt of such request and Certification, have been considered by the state.

Any and all conditions in the Grant Agreement for the above stated project, and funding thereof, are dependent on environmental review and clearance, and are hereby removed.

This notice constitutes your authority to use funds in the amount of \$\_\_\_\_\_, granted to you under Title I of the Housing and Community Development Act of 1974, for the above project.

\_\_\_\_\_  
Effective Date of Release

\_\_\_\_\_  
Environmental Review Officer  
Department of Economic Development

**EXHIBIT E-9**  
**STATE OF MISSOURI**  
**DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

**NOTICE OF RELEASE OF ENVIRONMENTAL REQUIREMENTS**

(for Private Monies Only)

Date Request for Release of Funds and Certification received: \_\_\_\_\_

Name of Project: \_\_\_\_\_

The City of \_\_\_\_\_ has addressed its responsibilities regarding the environmental review procedures for the above-referenced project, including clearance from all applicable agencies. Activities funded with private monies may be initiated per the release date of this notice. However, this in no way permits CDBG funds to be released or obligated to this project at this time.

DED Contingent Commitment Date: \_\_\_\_\_

\_\_\_\_\_  
Effective Date of Release

\_\_\_\_\_  
Environmental Review Officer  
Department of Economic Development

## EXHIBIT E-10

### SECTION 106 PROJECT INFORMATION FORM



MISSOURI DEPARTMENT OF NATURAL RESOURCES  
STATE HISTORIC PRESERVATION OFFICE  
**SECTION 106 PROJECT INFORMATION FORM**

Submission of a completed Project Information Form with adequate information and attachments constitutes a request for review pursuant to Section 106 of the National Historic Preservation Act of 1966 (as amended). We reserve the right to request more information. **Please refer to the CHECKLIST on Page 2 to ensure that all basic information relevant to the project has been included.** For further information, refer to our Web site at: <http://www.dnr.state.mo.us/shpo> and follow the links to Section 106 Review.

**NOTE:** Section 106 regulations provide for a 30-day response time by the Missouri State Historic Preservation Office from the date of receipt.

PROJECT NAME

FEDERAL AGENCY PROVIDING FUNDS, LICENSE, OR PERMIT

APPLICANT

TELEPHONE

CONTACT PERSON

TELEPHONE

ADDRESS FOR RESPONSE

#### LOCATION OF PROJECT

COUNTY: \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_

GIVE LEGAL DESCRIPTION OF PROJECT AREA (TOWNSHIP, RANGE, SECTION, ¼ SECTION, ETC.)

\*USGS TOPOGRAPHIC MAP QUADRANGLE NAME \_\_\_\_\_

YEAR: \_\_\_\_\_ TOWNSHIP: \_\_\_\_\_ RANGE: \_\_\_\_\_ SECTION: \_\_\_\_\_

\*SEE MAP REQUIREMENTS ON PAGE 2

#### PROJECT DESCRIPTION

- Describe the overall project in detail. If it involves excavation, indicate how wide, how deep, etc. If the project involves demolition of existing buildings, make that clear. If the project involves rehabilitation, describe the proposed work in detail. Use additional pages if necessary.



### ARCHAEOLOGY (Earthmoving Activities)

Has the ground involved been graded, built on, borrowed, or otherwise disturbed?

- Please describe in detail: (Use additional pages, if necessary.) Photographs are helpful.

Will the project require fill material? ☐ Yes ☐ No

- Indicate proposed borrow areas (source of fill material) on topographic map.

Are you aware of archaeological sites on or adjacent to project area? ☐ Yes ☐ No

- If yes, identify them on the topographic map.

### STRUCTURES (Rehabilitation, Demolition, Additions to, or Construction near existing structures)

To the best of your knowledge, is the structure located in any of the following?

☐ An Area Previously Surveyed for Historic Properties ☐ A National Register District ☐ A Local Historic District  
If yes, please provide the name of the survey or district:

- Please provide photographs of all structures, see photography requirements.
- **NOTE:** All photographs should be labeled and keyed to one map of the project area.
- Please provide a brief history of the building(s), including construction dates and building uses. (Use additional pages, if necessary.)

### ADDITIONAL REQUIREMENTS

**Map Requirements:** Attach a copy of the relevant portion (8½ x 11) of the current USGS 7.5 min. topographic map and, if necessary, a large scale project map. Please do not send an individual map with each structure or site. While an original map is preferable, a good copy is acceptable. USGS 7.5 min. topographic maps may be ordered from Geological Survey and Resource Assessment Division, Department of Natural Resources, 111 Fairground, Rolla, MO 65402, Telephone: (573) 368-2125, or printed from the website <http://www.topozone.com>.

**Photography Requirements:** Clear black & white or color photographs on photographic paper (minimum 3" x 5") are acceptable. Polaroids, photocopies, emailed, or faxed photographs are not acceptable. **Good quality photographs are important for expeditious project review.** Photographs of neighboring or nearby buildings are also helpful. All photographs should be labeled and keyed to one map of the project area.

**CHECKLIST:** Did you provide the following information?

☐ Topographic map 7.5 min. (per project, not structure)

☐ Other supporting documents (If necessary to explain the project)

☐ Thorough description (all projects)

☐ For new construction, rehabilitations, etc., attach work write-ups, plans, drawings, etc.

☐ Photographs (all structures)

☐ Is topographic map identified by quadrangle and year?

Return this Form and Attachments to:

MISSOURI DEPARTMENT OF NATURAL RESOURCES  
STATE HISTORIC PRESERVATION OFFICE  
Attn: Section 106 Review  
P.O. BOX 176  
JEFFERSON CITY, MISSOURI 65102-0176

# EXHIBIT E-11

## SECTION 106 SAMPLE FORM



MISSOURI DEPARTMENT OF NATURAL RESOURCES  
STATE HISTORIC PRESERVATION OFFICE  
**SECTION 106 PROJECT INFORMATION FORM**

Submission of a completed Project Information Form with adequate information and attachments constitutes a request for review pursuant to Section 106 of the National Historic Preservation Act of 1966 (as amended). We reserve the right to request more information. **Please refer to the CHECKLIST on Page 2 to ensure that all basic information relevant to the project has been included.** For further information, refer to our Web site at: <http://www.dnr.state.mo.us/shpo> and follow the links to Section 106 Review.

**NOTE:** Section 106 regulations provide for a 30-day response time by the Missouri State Historic Preservation Office from the date of receipt.

PROJECT NAME Public Facilities Grant -- City of Metropolis, Project No. 2002-PF-47	
FEDERAL AGENCY PROVIDING FUNDS, LICENSE, OR PERMIT US Dept of Housing and Urban Development (HUD)/Community Development Block Grant Program (CDBG)	
APPLICANT City of Metropolis	TELEPHONE (555) 555-5555
CONTACT PERSON Clark Kent	TELEPHONE (555) 555-5555
ADDRESS FOR RESPONSE 100 Main Street Metropolis, MO 61111	
<b>LOCATION OF PROJECT</b>	
COUNTY: <u>Jorel County</u>	
STREET ADDRESS: <u>567 Superman Avenue</u> CITY: <u>Metropolis</u>	
GIVE LEGAL DESCRIPTION OF PROJECT AREA (TOWNSHIP, RANGE, SECTION, ¼ SECTION, ETC.)  *USGS TOPOGRAPHIC MAP QUADRANGLE NAME <u>Metr. SE</u> YEAR: <u>1983</u> TOWNSHIP: <u>60 N</u> RANGE: <u>18 W</u> SECTION: <u>5</u> *SEE MAP REQUIREMENTS ON PAGE 2	
<b>PROJECT DESCRIPTION</b>	
<ul style="list-style-type: none"> <li>Describe the overall project in detail. If it involves excavation, indicate how wide, how deep, etc. If the project involves demolition of existing buildings, make that clear. If the project involves rehabilitation, describe the proposed work in detail. Use additional pages if necessary.</li> </ul> <p>The project will develop a new 20 acre city industrial park. Some land leveling will be required for installation of water, sewer, and storm drain lines.</p>	

MO 780-1027 (09-02)



**ARCHAEOLOGY (Earthmoving Activities)**

Has the ground involved been graded, built on, borrowed, or otherwise disturbed?

- Please describe in detail: (Use additional pages, if necessary.) Photographs are helpful.

Will the project require fill material? ☒ Yes ☐ No

- Indicate proposed borrow areas (source of fill material) on topographic map.

Are you aware of archaeological sites on or adjacent to project area? ☐ Yes ☒ No

- If yes, identify them on the topographic map.

**STRUCTURES (Rehabilitation, Demolition, Additions to, or Construction near existing structures)**

To the best of your knowledge, is the structure located in any of the following?

☐ An Area Previously Surveyed for Historic Properties ☐ A National Register District ☐ A Local Historic District

If yes, please provide the name of the survey or district:

- Please provide photographs of all structures, see photography requirements.
- **NOTE:** All photographs should be labeled and keyed to one map of the project area.
- Please provide a brief history of the building(s), including construction dates and building uses. (Use additional pages, if necessary.)

**ADDITIONAL REQUIREMENTS**

**Map Requirements:** Attach a copy of the relevant portion (8½ x 11) of the current USGS 7.5 min. topographic map and, if necessary, a large scale project map. Please do not send an individual map with each structure or site. While an original map is preferable, a good copy is acceptable. USGS 7.5 min. topographic maps may be ordered from Geological Survey and Resource Assessment Division, Department of Natural Resources, 111 Fairground, Rolla, MO 65402, Telephone: (573) 368-2125, or printed from the website <http://www.topozone.com>.

**Photography Requirements:** Clear black & white or color photographs on photographic paper (minimum 3" x 5") are acceptable. Polaroids, photocopies, emailed, or faxed photographs are not acceptable. **Good quality photographs are important for expeditious project review.** Photographs of neighboring or nearby buildings are also helpful. All photographs should be labeled and keyed to one map of the project area.

**CHECKLIST:** Did you provide the following information?

☒ Topographic map 7.5 min. (per project, not structure)

☒ Other supporting documents (If necessary to explain the project)

☒ Thorough description (all projects)

☐ For new construction, rehabilitations, etc., attach work write-ups, plans, drawings, etc.

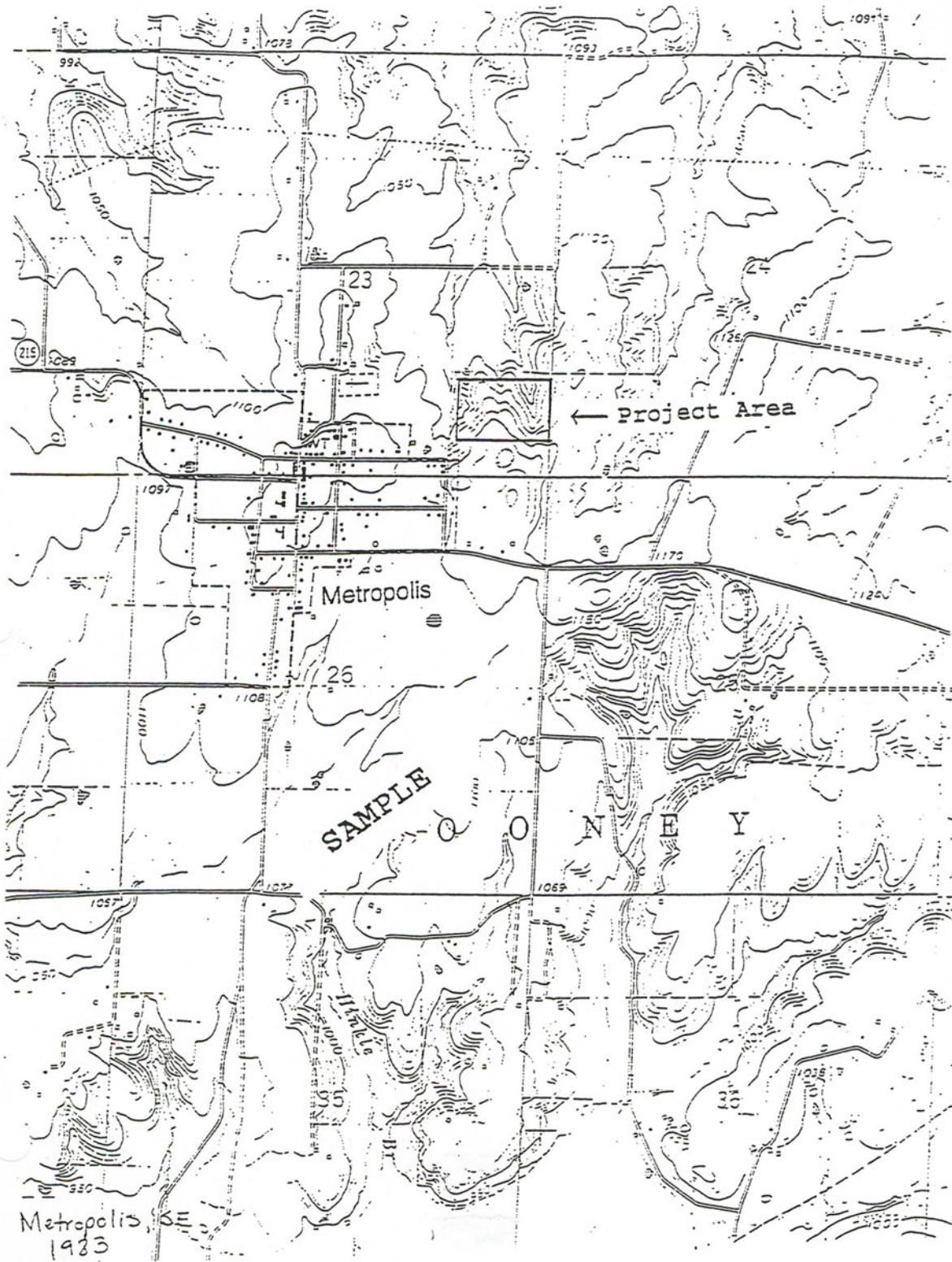
☐ Photographs (all structures)

☒ Is topographic map identified by quadrangle and year?

**Return this Form and Attachments to:**

**MISSOURI DEPARTMENT OF NATURAL RESOURCES  
STATE HISTORIC PRESERVATION OFFICE  
Attn: Section 106 Review  
P.O. BOX 176  
JEFFERSON CITY, MISSOURI 65102-0176**





## EXHIBIT-12

### SECTION 106 SAMPLE FORM



MISSOURI DEPARTMENT OF NATURAL RESOURCES  
STATE HISTORIC PRESERVATION OFFICE  
**SECTION 106 PROJECT INFORMATION FORM**

Submission of a completed Project Information Form with adequate information and attachments constitutes a request for review pursuant to Section 106 of the National Historic Preservation Act of 1966 (as amended). We reserve the right to request more information. **Please refer to the CHECKLIST on Page 2 to ensure that all basic information relevant to the project has been included.** For further information, refer to our Web site at: <http://www.dnr.state.mo.us/shpo> and follow the links to Section 106 Review.

**NOTE:** Section 106 regulations provide for a 30-day response time by the Missouri State Historic Preservation Office from the date of receipt.

PROJECT NAME <b>Metropolis Neighborhood Development Grant 99-ND-02</b>	
FEDERAL AGENCY PROVIDING FUNDS, LICENSE, OR PERMIT <b>US Dept of Housing and Urban Development (HUD)/Community Development Block Grant Program (CDBG)</b>	
APPLICANT <b>City of Metropolis</b>	TELEPHONE <b>(555) 555-5555</b>
CONTACT PERSON <b>Clark Kent</b>	TELEPHONE <b>(555) 555-5555</b>
ADDRESS FOR RESPONSE <b>100 Main Street Metropolis, MO 61111</b>	
<b>LOCATION OF PROJECT</b>	
COUNTY: <u>Jorel County</u>	
STREET ADDRESS: _____ CITY: <u>Metropolis</u>	
GIVE LEGAL DESCRIPTION OF PROJECT AREA (TOWNSHIP, RANGE, SECTION, ¼ SECTION, ETC.)  *USGS TOPOGRAPHIC MAP QUADRANGLE NAME <u>Metr. SE</u> YEAR: <u>1983</u> TOWNSHIP: _____ RANGE: _____ SECTION: _____ *SEE MAP REQUIREMENTS ON PAGE 2	
<b>PROJECT DESCRIPTION</b>	
<ul style="list-style-type: none"><li>Describe the overall project in detail. If it involves excavation, indicate how wide, how deep, etc. If the project involves demolition of existing buildings, make that clear. If the project involves rehabilitation, describe the proposed work in detail. Use additional pages if necessary.</li></ul> <p>We will rehabilitate 20 homes in the target area and demolish three. The three to be demolished are 100 First Street, 200 Second Street, and 300 Third Street.</p>	

MO 780-1027 (09-02)



**ARCHAEOLOGY (Earthmoving Activities)**

Has the ground involved been graded, built on, borrowed, or otherwise disturbed?

- Please describe in detail: (Use additional pages, if necessary.) Photographs are helpful.

Will the project require fill material? ☐ Yes ☐ No

- Indicate proposed borrow areas (source of fill material) on topographic map.

Are you aware of archaeological sites on or adjacent to project area? ☐ Yes ☐ No

- If yes, identify them on the topographic map.

**STRUCTURES (Rehabilitation, Demolition, Additions to, or Construction near existing structures)**

To the best of your knowledge, is the structure located in any of the following?

☒ An Area Previously Surveyed for Historic Properties ☐ A National Register District ☐ A Local Historic District

If yes, please provide the name of the survey or district:

- Please provide photographs of all structures, see photography requirements.
- **NOTE:** All photographs should be labeled and keyed to one map of the project area.
- Please provide a brief history of the building(s), including construction dates and building uses. (Use additional pages, if necessary.)

**ADDITIONAL REQUIREMENTS**

**Map Requirements:** Attach a copy of the relevant portion (8½ x 11) of the current USGS 7.5 min. topographic map and, if necessary, a large scale project map. Please do not send an individual map with each structure or site. While an original map is preferable, a good copy is acceptable. USGS 7.5 min. topographic maps may be ordered from Geological Survey and Resource Assessment Division, Department of Natural Resources, 111 Fairground, Rolla, MO 65402, Telephone: (573) 368-2125, or printed from the website <http://www.topozone.com>.

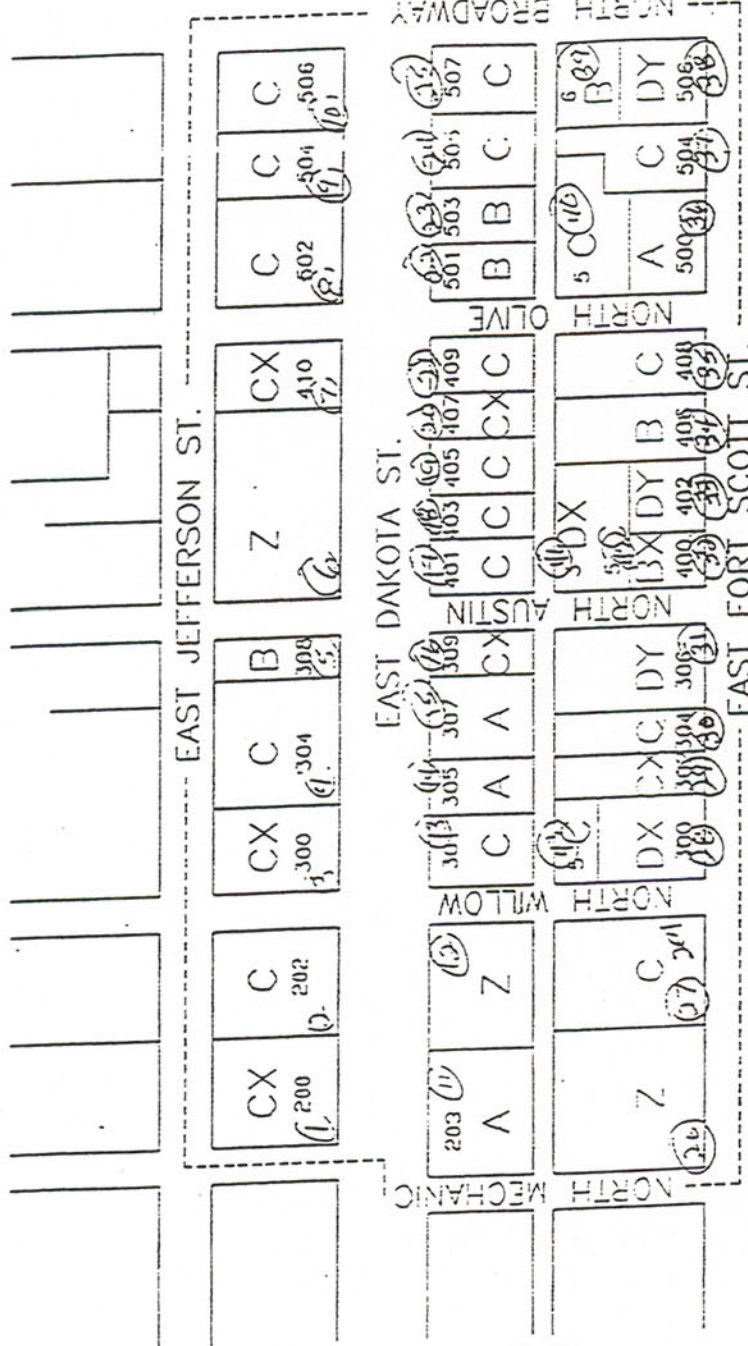
**Photography Requirements:** Clear black & white or color photographs on photographic paper (minimum 3" x 5") are acceptable. Polaroids, photocopies, emailed, or faxed photographs are not acceptable. **Good quality photographs are important for expeditious project review.** Photographs of neighboring or nearby buildings are also helpful. All photographs should be labeled and keyed to one map of the project area.

**CHECKLIST: Did you provide the following information?**

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Topographic map 7.5 min. (per project, not structure) | <input checked="" type="checkbox"/> Other supporting documents (If necessary to explain the project)               |
| <input checked="" type="checkbox"/> Thorough description (all projects)                   | <input type="checkbox"/> For new construction, rehabilitations, etc., attach work write-ups, plans, drawings, etc. |
| <input checked="" type="checkbox"/> Photographs (all structures)                          | <input checked="" type="checkbox"/> Is topographic map identified by quadrangle and year?                          |

**Return this Form and Attachments to:**

**MISSOURI DEPARTMENT OF NATURAL RESOURCES  
STATE HISTORIC PRESERVATION OFFICE  
Attn: Section 106 Review  
P.O. BOX 176  
JEFFERSON CITY, MISSOURI 65102-0176**



SAMPLE

No.	Code	Description
4	A	Standard Residential Unit
6	B	Moderately Deteriorated (1 or 2 major defects)
25	C	Severely Deteriorated (3 or more major defects)
5	D	Dilapidated
9	X	Unoccupied Unit (indicate A-D for condition, also)
3	Y	Relocation planned
3	Z	Non-residential Property (church, commercial, industrial)

1995 CDDC  
Application for Neighborhood  
Development Project  
Target Area Map  
Metropolitan Missouri

## EXHIBIT E-13

### HISTORICAL PRESERVATION CONFIRMATION LETTER

#### SAMPLE

Deputy State Historic Preservation Officer  
Historical Preservation Program  
Missouri Department of Natural Resources  
P.O. Box 176  
Jefferson City, Missouri 65102

RE: 93-PF/ND-00 (Grantee)

Dear Deputy State Historic Preservation Officer:

Enclosed are the "Questionnaire to Determine Need for Cultural Resource Assessment" and a photograph of a house located at 100 East Street. This property is scheduled to be rehabilitated with the assistance of a CDBG Neighborhood Development Grant. I believe that the assessment form and a photograph indicate that the property has no historic significance. We would like to proceed with the rehabilitation as soon as possible; therefore, if you agree and we need to take no further action on this property, would you please so indicate by signing and returning one copy of this letter.

#### OR

Enclosed are the "Questionnaire to Determine Need For Cultural Resource Assessment" and map of the site for the proposed water project. This property is scheduled for construction with the assistance of a CDBG Public Facilities Grant. I believe that the assessment form and map indicate that the property has no historic significance. We would like to proceed with construction as soon as possible; therefore, if you agree and we need to take no further action on this site, would you please so indicate by signing and returning one copy of this letter.

Sincerely,

John Doe  
Environmental Review Officer  
City/County of \_\_\_\_\_

☐ I concur. \_\_\_\_\_ Date: \_\_\_\_\_

☐ I do not concur. Letter with comments to follow.

**NOTE:** PRIOR TO SUBMITTING THIS LETTER, CALL THE DEPUTY STATE HISTORIC PRESERVATION OFFICER TO DETERMINE IF THIS OPTION IS ACCEPTABLE.



## EXHIBIT E-14

### CONSULTANTS: HISTORIANS and ARCHITECTURAL HISTORIANS

REVISED 2/19/2004

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Archaeological Research Center of St.  
Louis, Inc.  
Attn: Joe Harl or Mary Jo Cramer  
2812 Woodson Road  
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(314) 426-2577  
Fax: (314) 426-2599

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Rhonda Chalfant  
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Sedalia, MO 65301  
(660) 826-5592

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Susan Jezak Ford  
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Kansas, MO 64109  
(816) 531-2489  
Fax: (816) 333-2809  
citysusan@aol.com

Dr. H. Jason Combs  
100 Academic Circle, Box 445  
State University, AR 72467  
(800) 972-3705  
hcombs@astate.edu

Jane Eiseley  
(single properties, not districts)  
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E-M P-F Technology  
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(573) 672-3219

Dr. Robert Flanders  
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George Butler & Associates  
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Lenexa, KS 66214-3621  
(913) 492-0400  
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Hardlines Design Company  
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mcrowe@hardlines.com

Heritage Research, Ltd.  
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Heritage Research Company  
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Historic Preservation Services LLC  
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Fax: (816) 221-5141  
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sschwenk@hpskc.com

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Memphis, TN 38104  
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Home: (712) 255-5373

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sanmarsh@earthlink.net

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Dames & Moore  
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Bethesda, MD 20814-4870  
(301) 652-2215

Mead & Hunt, Inc.  
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sandy.stevens@parsons.com

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Springfield, IL 62703-4315  
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Fax: (217) 529-2380

Brett Rogers  
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Ph: 660-882-9161  
E-Mail: brogers@williamwoods.edu  
or rogersbs@missouri.edu

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Washington, DC 20001  
(202) 393-1199  
Fax: (202) 393-1056



## EXHIBIT E-15

### CONSULTANTS: ARCHAEOLOGISTS

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Melinda J. King, Staff Archaeologist  
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Louisville, KY 40299  
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Fax: (502) 267-5900

American Bottom Survey Division,  
ITARP-UIUC  
Mr. Brad Koldehoff, Coordinator  
6608 West Main Street  
Belleville, IL 62223  
(618) 397-5096  
Fax: (618) 397-5097

American Resources Group, Ltd.  
127 North Washington  
Attn: Michael McNerney or Steve Titus  
Carbondale, IL 62901  
(618) 529-2741  
Fax: (618) 457-5070

Archaeological Research Center of St.  
Louis, Inc.  
Attn: Joe Harl or Mary Jo Cramer  
2812 Woodson Road  
St. Louis, MO 63114  
(314) 426-2577  
Fax: (314) 426-2599

Archaeological Research Incorporated  
1735 N. Paulina Street, Ste. 113  
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(773) 384-8134  
Fax: (773) 384-8286  
E-mail: arinc@ix.netcom.com

Archaeology Lab, Augustana College  
Dr. L. Adrien Hannus, Principal  
Archaeologist/Director  
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Sioux Falls, SD 57105  
(605) 274-5493  
Fax: (605) 274-4368

Bear Creek Archaeology, Inc.  
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Cresco, IA 52136  
(319) 547-4545  
Fax: (319) 547-5403

Cecada Systems, Inc.  
Adrian D. Anderson  
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Jewell, IA 50130  
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Consulting Survey Archaeologist  
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St. Louis, MO 63122-2129  
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Commonwealth Cultural Resources Group,  
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Fax: (517) 788-6594

Cultural Resource Analysts, Inc.  
143 Walton Avenue  
Lexington, KY 40508  
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Don L. Dycus RPA, LLC  
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Kansas City, MO 64171-0148  
(816) 931-7319  
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E-mail: ddycus@kc.rr.com

Earth Search, Inc.  
Dr. Jill-Karen Yakubik  
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New Orleans, LA 70185-0319  
(504) 865-8723  
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E-mail: esi@cris.com

Effigy Archeological Services, Inc.  
10108 W. 96th Street, Unit E  
Overland Park, Kansas 66212  
(913) 962-6688  
FAX: (913) 888-4113  
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tgannon@effigyarch.com

Environmental Research of Missouri  
1201 Moreu Drive  
Jefferson City, MO 65101  
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Environmental Systems Analysis  
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GAI Consultants, Inc.  
Patrick D. Trader  
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Gateway Archaeology  
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(501) 442-3779  
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HNB Professional Engineers, Inc.  
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Environmental Planning Division Manager  
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Illinois State Museum  
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TRC

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Triad Research Services

Dr. Gary Rex Walters

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Patrick D. Trader

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University of South Dakota Archaeology

Lab

William Ranney, Research Archaeologist

414 East Clark Street

Vermillion, SD 57069-2390

Wapsi Valley Archaeology

Michael Finn, Archaeologist

P.O. Box 244

Anamosa, Iowa 52205

## **EXHIBIT E-16**

### **FLOOD PLAINS AND WETLANDS NOTICES SAMPLE**

#### **EARLY PUBLIC NOTICE**

The City of West Linn, Missouri, is proposing to construct a new water treatment plant located on the corner of 10th Street and Mulberry in census tract 10. The project will involve 5.3 acres located in the 100-year floodplain. The City is interested in discussing alternatives to this project and securing public perceptions of possible adverse impacts that could result from the project and possible mitigation measures. Please send written comments to Tom Tyron, City Hall, Room 200, West Linn, Missouri 66000 or call (555) 555-5555. Comments will be received until \_\_\_\_ (date) \_\_\_\_.

Mr. Tom Tyron  
City Administrator

**The Early Public Notice must allow a 15-day comment period from the date of publication.**

#### **NOTICE OF EXPLANATION**

The City of West Linn, Missouri, intends to undertake the construction of a new water treatment plant located on the corner of 10th Street and Mulberry in census tract 10. This project is needed to improve water quality and meet the existing demand for potable water. This project is located in the 100-year floodplain. The project cannot be undertaken in any other location because of the land topography and the number of acres required for the project. Therefore, there is not a feasible alternative to the proposed project. The City considered the following alternatives:

1. Locating the treatment plant on the corner of West Avenue and Route B.
2. Constructing a mechanical treatment facility rather than a lagoon system

The proposed project is designed to minimize adverse impacts and preserve the natural floodplain. Failure to provide these improvements would result in the continued deterioration of the City's water supply and outweighs consideration of Executive Order 11988 and 11990. A more detailed description of the project and the FIA flood maps are available for citizen review at City Hall, Room 200, West Linn, MO 66000.

Mr. Tom Tyron  
City Administrator

**THE NOTICE OF EXPLANATION SHALL NOT BE PUBLISHED UNTIL AFTER THE PUBLIC HEARING IS HELD AND COMMENTS ARE RECEIVED.**

## EXHIBIT E-17

### Summary of Procedures and Requirements of Applicable Federal Laws and Regulations

Legislation	Regulation	Applicability	General Requirements	Coordination/Consultation
<b>Historic Preservation</b> National Historic Preservation Act, 16 U.S.C 470(f), Section 106	CRF Part 1294, 36 CFR Part 800	All actions affecting properties on or eligible for National Register of Historic Places	Protect sites, buildings, and objects with National, State, or local historic or cultural significance (i.e., historic properties that are eligible for listing on the National Register of Historic Places). Identify effects of projects on properties.	Coordinate with SHPO, ACHP, and DOI (Keeper of the Register).
<b>Floodplain</b> E.O. 11988, Floodplain Management	24 CFR Part 55 (when issued)	Any action proposed for a floodplain	Avoid direct or indirect support of floodplain development wherever there is a practical alternative.	
<b>Wetlands</b> E.O. 11990, Protection of Wetlands	24 CFR Part 55 (when issued)	Any action proposed for construction in a wetland	Avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative.	
<b>Noise</b> Noise Control Act, 42 U.S.C. 4903	24 CFR Part 51, Subpart B	All actions	Compliance with special provisions for CDBG projects required.	
<b>Air Quality</b> Clean Air Act 42, U.S.C. 7400, et seq., Section 404	33 CFR Part 50 and portions of CFR Parts 51, 52, and 61	All actions	Federal actions must conform with the SIP	Coordinate with EPA and State and local air pollution control agencies in making conformity determinations as appropriate.
		Large Stationary pollution sources	Compliance with stationary source air pollution standards for major sources emitting 100 tons per year of a single air pollutant.	
<b>Hazards</b>		All actions	Screen to determine if site is in a location in violation of ambient air quality standard – assess impacts on project.	
	HUD Notice 79-33, 24 CFR Part 51 Subpart C and D	All actions	Minimize the impact of environmental hazards on HUD-assisted activities – chemical and radioactive materials, activities of flammable or explosive nature, aircraft hazards.	Coordinate with EPA and other Federal agencies, as appropriate.
<b>Water Quality</b> Clean Water Act, 33 U.S.C. 1251 – 1376, et seq., Section 404	33 CFR Part 320-325, 33 CFR Part 230	Any activity involving disposal or placement of dredged or fill material in navigable waters	The 404 permit program is administered by Corps of Engineers; EPA has authority to veto permits.	Applicant must have permit before decisions on appropriate environmental document
Safe Drinking Water Act, 42 U.S.C. 300		Federally-assisted projects which may contaminate an aquifer designated by EPA as the sole source of drinking water for a community	Compliance with 208 plan Prohibits financial assistance of projects, which EPA determines may contaminate a designated sole source aquifer.	Request from EPA a determination whether project may contaminate the aquifer.
<b>Solid Waste Disposal</b> Resource Conservation and Recover Act, 42 U.S.C. 6901-6987		Any activity which generates solid waste	Requires compliance with Section 209 guidelines.	Coordinate with EPA
<b>Coastal Area</b>	50 CFR Part 930, 44 FR 37142	Any action which might jeopardize continued assistance of endangered or threatened species or results in destruction or modification of critical habitat	Federal agencies shall insure that their actions conserve listed species and ensure, in consultation with FMS/NMFS, that their actions do not jeopardize listed species or modify critical habitat.	Coordinate with FMS concerning terrestrial and freshwater species; NMFS concerning marine species.
Coastal Zone Management Act, 16 U.S.C 1451-1464	15 CFR Part 930, 44 FR 37142			Coordinate with State Coastal Zone Management Agency. If federally funded action is inconsistent with approved plan, coordinate with DOC office of Coastal Zone Management.
Coastal Barrier Resource Act 1982, 16 U.S.C. 3501, et.seq.		Any proposed activity affecting areas covered by an approved coastal zone management plan	Ensure that projects are consistent with coastal zone program	
<b>Endangered Species Act</b> 16 U.S.C. 1531, Section 7		Any proposed construction or development action which may occur on an undeveloped coastal barrier listed in Section 4 of the Act (Section 6 cites exceptions)	Prohibits Federal Flood Insurance and other Federal assistance on actions which encourage development of coastal barrier resources	Coordination with U.S. Fish and Wildlife Service and State Coastal Zone Management Agencies
<b>Farmland Protection</b> Farmland Protection Policy Act of 1981, U.S.C. 4201, et. seq.	7 CFR Part 658	Any Federally assisted action, which encourages the conversion of prime, unique State/locally important farmlands.	Minimize the extent to which Federal programs contribute to the unnecessary conversion of farmland to nonagricultural uses.	Coordination with U.S. Fish and Wildlife Service and State Coastal Zone Management Agencies
<b>Wild and Scenic Rivers</b> Wild and Scenic Rivers Act, 16 U.S.C. 1271-1257	President's Environmental Message, 8-2-79; CBQ Memorandum, 8-10-80; Interagency Consultation on Rivers in the Nationwide Inventory	Rivers designated under the Act; proposed activity affecting rivers on the Nationwide Inventory of potential wild, scenic, and recreational rivers	Preserve wild and scenic rivers. Assure that Federal actions do not foreclose designation under the Wild and Scenic Rivers Act.	Coordinate with HCRS and USDA Forest Service, as appropriate. Coordinate with HCRS.

## **EXHIBIT E-18**

### **COMMON ENVIRONMENTAL ACRONYMS**

**ACHP** – Advisory Council on Historic Preservation

**APE** – Area of Potential Effects

**CERCLA** – Comprehensive Environmental Response, Compensation and Liability Act

**CFR** – Code of Federal Regulations

**CLG** – Certified Local Government

**COGS** – Council of Governments

**DNR** – Department of Natural Resources

**EO** – Executive Order

**ED** – Economic Development

**EIS** – Environmental Impact Statement

**EPA** – Environmental Protection agency

**FEMA** – Federal Emergency Management Agency

**FONSI** – Finding of No Significant Impact

**FOSI** – Finding of Significant Impact

**HUD** – Housing and Urban Development

**MODOT** – Missouri Department of Transportation

**NFIP** – National Flood Insurance Program

**NHPA** – National Historic Preservation Act

**NPS** – National Park Service

**NRCS** – Natural Resources Conservation Service

**RPCS** – Regional Planning Commissions

**SEMA** – State Emergency Management Agency

**SHPO** – State Historic Preservation Office

**USDA** – United State Department of Agriculture

**USGS** – United States Geological Survey

## **EXHIBIT E-19**

[Code of Federal Regulations]  
[Title 24, Volume 1]  
[Revised as of April 1, 2002]  
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### **TITLE 24--HOUSING AND URBAN DEVELOPMENT**

#### **PART 58--ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES**

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- 58.2 Terms, abbreviations and definitions.
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58.74 Time for objecting.

58.75 Permissible bases for objections.

58.76 Procedure for objections.

58.77 Effect of approval of certification.

Authority: 12 U.S.C. 1707 note; 42 U.S.C. 1437o(i)(1) and (2), 1437x, 3535(d), 3547, 4332, 4852, 5304(g), 11402, and 12838; E.O. 11514, 3 CFR, 1966-1970, Comp., p. 902, as amended by E.O. 11991, 3 CFR, 1977 Comp., p.123.

Source: 61 FR 19122, Apr. 30, 1996, unless otherwise noted.

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#### Subpart A--Purpose, Legal Authority, Federal Laws and Authorities

##### Sec. 58.1 Purpose and applicability.

(a) Purpose. This part provides instructions and guidance to recipients of HUD assistance and other responsible entities for conducting an environmental review for a particular project or activity and for obtaining approval of a Request for Release of Funds.

(b) Applicability. This part applies to activities and projects where specific statutory authority exists for recipients or other responsible entities to assume environmental responsibilities. Programs and activities subject to this part include:

- (1) Community Development Block Grant programs authorized by Title I of the Housing and Community Development Act of 1974, in accordance with section 104(g) (42 U.S.C. 5304(g));
- (2) The Rental Rehabilitation program and Housing Development Grant program authorized by section 17 of the United States Housing Act of 1937, in accordance with sections 17(i)(1) and 17(i)(2) with respect to projects and programs for which binding commitments have been entered into prior to October 1, 1991, since section 17 was repealed by the Cranston-Gonzalez National Affordable Housing Act enacted November 28, 1990 (42 U.S.C. 1437o(i)(1) and (2));
- (3) Grants to States and units of general local government under the Emergency Shelter Grant Program, Supportive Housing program (and its predecessors, the Supportive Housing Demonstration program (both Transitional Housing and Permanent Housing for Homeless Persons with Disabilities) and Supplemental Assistance for Facilities to Assist the Homeless), Shelter Plus Care program, Safe Havens for Homeless Individuals Demonstration Program, and Rural Homeless Housing Assistance, authorized by Title IV of the Stewart B. McKinney Homeless Assistance Act, in accordance with section 443 (42 U.S.C. 11402);

- (4) The HOME Investment Partnerships Program authorized by Title II of the Cranston-Gonzalez National Affordable Housing Act (NAHA), in accordance with section 288 (42 U.S.C. 12838);
- (5) Grants to States and units of general local government for abatement of lead-based paint and lead dust hazards pursuant to Title II of the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1992, and grants for lead-based paint hazard reduction under section 1011 of the Housing and Community Development Act of 1992, in accordance with section 1011(o) (42 U.S.C. 4852(o));
- (6)(i) Public Housing Programs under Title I of the United States Housing Act of 1937, in accordance with section 26 (42 U.S.C. 1437x);
- (ii) Indian Housing Programs under Title I of the United States Housing Act of 1937, including the Mutual Help Program, in accordance with section 26 (42 U.S.C. 1437x); and
- (iii) Assistance administered by a public housing agency or Indian housing authority under section 8 of the United States Housing Act of 1937, except for assistance provided under 24 CFR part 886, in accordance with section 26 (42 U.S.C. 1437x);
- (7) Special Projects appropriated under an appropriation act for HUD, such as special projects under the heading "Annual Contributions for Assisted Housing" in Title II of various Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts, in accordance with section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994 (42 U.S.C. 3547);
- (8) The FHA Multifamily Housing Finance Agency Pilot Program under section 542(c) of the Housing and Community Development Act of 1992, in accordance with section 542(c)(9)(12 U.S.C. 1707 note); and

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(9) The Self-Help Homeownership Opportunity Program under section 11 of the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104-120, 110 Stat. 834), in accordance with section 11(m)).

## Sec. 58.2 Terms, abbreviations and definitions.

(a) For the purposes of this part, the following definitions supplement the uniform terminology provided in 40 CFR part 1508:

- (1) Activity means an action that a grantee or recipient puts forth as part of an assisted project, regardless of whether its cost is to be borne by the HUD assistance or is an eligible expense under the HUD assistance program.
- (2) Certifying Officer means the official who is authorized to execute the Request for Release of Funds and Certification and has the legal capacity to carry out the responsibilities of Sec. 58.13.
- (3) Extraordinary Circumstances means a situation in which an environmental assessment (EA) or environmental impact statement (EIS) is not normally required, but due to unusual conditions, an EA or EIS is appropriate. Indicators of unusual conditions are:
  - (i) Actions that are unique or without precedent;
  - (ii) Actions that are substantially similar to those that normally require an EIS;
  - (iii) Actions that are likely to alter existing HUD policy or HUD mandates; or
  - (iv) Actions that, due to unusual physical conditions on the site or in the vicinity, have the potential for a significant impact on the environment or in which the environment could have a significant impact on users of the facility.
- (4) Project means an activity, or a group of integrally related activities, designed by the recipient to accomplish, in whole or in part, a specific objective.
- (5) Recipient means any of the following entities, when they are eligible recipients or grantees under a program listed in Sec. 58.1(b):
  - (i) A State that does not distribute HUD assistance under the program to a unit of general local government;
  - (ii) Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, and Palau;
  - (iii) A unit of general local government;
  - (iv) An Indian tribe;
  - (v)(A) With respect to Public Housing Programs under Sec. 58.1(b)(6)(i), a public housing agency;
  - (B) With respect to Indian Housing Programs under Sec. 58.1(b)(6)(ii), an Indian housing authority;
  - (C) With respect to section 8 assistance under Sec. 58.1(b)(6)(iii), a public housing agency or Indian housing authority;
  - (vi) Any direct grantee of HUD for a special project under Sec. 58.1(b)(7);
  - (vii) With respect to the FHA Multifamily Housing Finance Agency Pilot Program under Sec. 58.1(b)(8), a qualified housing finance agency; and
  - (viii) With respect to the Self-Help Homeownership Opportunity Program under Sec. 58.1(b)(9), any direct grantee of HUD.



(6) Release of funds. In the case of the FHA Multifamily Housing Finance Agency Pilot Program under Sec. 58.1(b)(8), Release of Funds, as used in this part, refers to HUD issuance of a firm approval letter, and Request for Release of Funds refers to a recipient's request for a firm approval letter.

(7) Responsible Entity means:

(i) With respect to environmental responsibilities under programs listed in Sec. 58.1(b) (1) through (5), a recipient under the program.

(ii) With respect to environmental responsibilities under the programs listed in Sec. 58.1(b) (6) through (9), a State, unit of general local government, Indian tribe or Alaska native village, when it is the recipient under the program. Non-recipient responsible entities are designated as follows:

(A) For qualified housing finance agencies, the State or a unit of general local government, Indian tribe or Alaska native village whose jurisdiction contains the project site;

(B) For public housing agencies, the unit of general local government within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

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(C) For non-profit organizations and other entities, the unit of general local government, Indian tribe or Alaska native village within which the project is located that exercises land use responsibility, or if HUD determines this infeasible, the county, or if HUD determines this infeasible, the State;

(D) For Indian housing authorities (outside of Alaska), the Indian tribe in whose jurisdiction the project is located, or if the project is located outside of a reservation, the Indian tribe that established the authority; and

(E) For Indian housing authorities in Alaska, the Alaska native village in whose community the project is located, or if HUD determines this infeasible, a unit of general local government or the State, as designated by HUD.

(8) Unit Density refers to a change in the number of dwelling units. Where a threshold is identified as a percentage change in density that triggers review requirements, no distinction is made between an increase or a decrease in density.

(9) Tiering means the evaluation of an action or an activity at various points in the development process as a proposal or event becomes ripe for an Environment Assessment or Review.

(10) Vacant Building means a habitable structure that has been vacant for more than one year.

(b) The following abbreviations are used throughout this part:

- (1) CDBG--Community Development Block Grant;
- (2) CEQ--Council on Environmental Quality;
- (3) EA--Environmental Assessment;
- (4) EIS--Environmental Impact Statement;
- (5) EPA--Environmental Protection Agency;
- (6) ERR--Environmental Review Record;
- (7) FONSI--Finding of No Significant Impact;
- (8) HUD--Department of Housing and Urban Development;
- (9) NAHA--Cranston-Gonzalez National Affordable Housing Act of 1990;
- (10) NEPA--National Environmental Policy Act of 1969, as amended;
- (11) NOI/EIS--Notice of Intent to Prepare an EIS;
- (12) NOI/RROF--Notice of Intent to Request Release of Funds;
- (13) ROD--Record of Decision;
- (14) ROF--Release of Funds; and
- (15) RROF--Request for Release of Funds.

#### Sec. 58.4 Assumption authority.

(a) Assumption authority for responsible entities: General. Responsible entities shall assume the responsibility for environmental review, decision-making, and action that would otherwise apply to HUD under NEPA and other provisions of law that further the purposes of NEPA, as specified in Sec. 58.5. Responsible entities that receive assistance directly from HUD assume these responsibilities by execution of a grant agreement with HUD and/or a legally binding document such as the certification contained on HUD Form 7015.15, certifying to the assumption of environmental responsibilities. When a State distributes funds to a responsible entity, the State must provide for appropriate procedures by which these responsible entities will evidence their assumption of environmental responsibilities.

(b) Particular responsibilities of the States. (1) States are recipients for purposes of directly undertaking a State project and must assume the environmental review responsibilities for the State's activities and those of any non-governmental entity that may participate in the project. In this case, the State must submit the certification and RROF to HUD for approval.

(2) States must exercise HUD's responsibilities in accordance with Sec. 58.18, with respect to approval of a unit of local government's environmental certification and RROF for a HUD assisted project funded through the State, except for projects assisted by Section 17 Rental Rehabilitation assistance and Housing Development Grants. Approval by the State of a unit of local government's certification and RROF satisfies the Secretary's responsibilities under NEPA and the related laws cited in Sec. 58.5.

(3) For section 17 Rental Rehabilitation projects and Housing Development Grants, the State agency shall meet the responsibilities set forth in Sec. 58.18. However, for section 17 projects, the

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State lacks authority to approve RROFs and therefore must forward to the responsible HUD Field Office the local recipient's certification and RROF, any objections to the release of funds submitted by another party, and the State's recommendation as to whether HUD should approve the certification and the RROF.

#### Sec. 58.5 Related Federal laws and authorities.

In accordance with the provisions of law cited in Sec. 58.1(b), the responsible entity must assume responsibilities for environmental review, decision-making and action that would apply to HUD under the following specified laws and authorities. The responsible entity must certify that it has complied with the requirements that would apply to HUD under these laws and authorities and must consider the criteria, standards, policies and regulations of these laws and authorities.

(a) Historic properties. (1) The National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 et seq.), particularly sections 106 and 110 (16 U.S.C. 470 and 470h-2), except as provided in Sec. 58.17 for Section 17 projects.

(2) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921), 3 CFR 1971-1975 Comp., p. 559, particularly section 2(c).

(3) Federal historic preservation regulations as follows:

(i) 36 CFR part 800 with respect to HUD programs other than Urban Development Action Grants (UDAG); and

(ii) 36 CFR part 801 with respect to UDAG.

(4) The Reservoir Salvage Act of 1960 as amended by the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.), particularly section 3 (16 U.S.C. 469a-1).

(b) Floodplain management and wetland protection. (1) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951), 3 CFR, 1977 Comp., p. 117, as interpreted in HUD regulations at 24 CFR part 55, particularly section 2(a) of the order (For an explanation of the relationship between the decision-making process in 24 CFR part 55 and this part, see Sec. 55.10 of this subtitle A.)

(2) Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961), 3 CFR, 1977 Comp., p. 121, particularly sections 2 and 5.

(c) Coastal Zone Management. The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), as amended, particularly section 307(c) and (d) (16 U.S.C. 1456(c) and (d)).

(d) Sole source aquifers. (1) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424(e)(42 U.S.C. 300h-3(e)).

(2) Sole Source Aquifers (Environmental Protection Agency--40 CFR part 149).

(e) Endangered species. The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended, particularly section 7 (16 U.S.C. 1536).

(f) Wild and scenic rivers. The Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended, particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c)).

(g) Air quality. (1) The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)).

(2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency-- 40 CFR parts 6, 51, and 93).

(h) Farmlands protection. (1) Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.) particularly sections 1540(b) and 1541 (7 U.S.C. 4201(b) and 4202).

(2) Farmland Protection Policy (Department of Agriculture--7 CFR part 658).

(i) HUD environmental standards. Applicable criteria and standards specified in HUD environmental regulations (24 CFR part 51) (other than the runway clear zone and clear zone notification requirement in 24 CFR 51.303 (a)(3)) and HUD Notice 79-33, Policy Guidance to Address the Problems Posed by Toxic Chemicals and Radioactive Materials, September 10, 1979).

(j) Environmental justice. Executive Order 12898--Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, February 11, 1994 (59 FR 7629), 3 CFR, 1994 Comp. p. 859.

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## Sec. 58.6 Other requirements.

In addition to the duties under the laws and authorities specified in Sec. 58.5 for assumption by the responsible entity under the laws cited in Sec. 58.1(b), the responsible entity must comply with the following requirements. Applicability of the following requirements does not trigger the certification and release of funds procedure under this part or preclude exemption of an activity under Sec. 58.34(a)(12) and/or the applicability of Sec. 58.35(b). However, the responsible entity remains responsible for addressing the following requirements in its ERR and meeting these requirements, where applicable, regardless of whether the activity is exempt under Sec. 58.34 or categorically excluded under Sec. 58.35(a) or (b).

(a)(1) Under the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001-4128), Federal financial assistance for acquisition and construction purposes (including rehabilitation) may not be used in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(i) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since the FEMA notification regarding such hazards; and

(ii) Where the community is participating in the National Flood Insurance Program, flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.

(2) Where the community is participating in the National Flood Insurance Program and the recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, the responsible entity is responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

(3) Paragraph (a) of this section does not apply to Federal formula grants made to a State.

(b) Under section 582 of the National Flood Insurance Reform Act of 1994, 42 U.S.C. 5154a, HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if:

(1) The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and

(2) The person failed to obtain and maintain flood insurance.

(c) Pursuant to the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501), HUD assistance may not be used for most activities proposed in the Coastal Barrier Resources System.

(d) In all cases involving HUD assistance, subsidy, or insurance for the purchase or sale of an existing property in a Runway Clear Zone or Clear Zone, as defined in 24 CFR part 51, the responsible entity shall advise the buyer that the property is in a runway clear zone or clear zone, what the implications of such a location are, and that there is a possibility that the property may, at a later date, be acquired by the airport operator. The buyer must sign a statement acknowledging receipt of this information.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15271, Mar. 30, 1998]

### Subpart B--General Policy: Responsibilities of Responsible Entities

## Sec. 58.10 Basic environmental responsibility.

In accordance with the provisions of law cited in Sec. 58.1(b), the responsible entity must assume the environmental responsibilities for projects under programs cited in Sec. 58.1(b), and in doing so must comply with the provisions of NEPA and the CEQ regulations contained in 40 CFR parts 1500 through 1508, including the requirements set forth in this part. This includes responsibility for compliance with the applicable provisions and requirements of

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the Federal laws and authorities specified in Sec. 58.5.

[63 FR 15271, Mar. 30, 1998]

## Sec. 58.11 Legal capacity and performance.

(a) A responsible entity which believes that it does not have the legal capacity to carry out the environmental responsibilities required by this part must contact the appropriate local HUD Office or the State for further instructions. Determinations of legal capacity will be made on a case-by-case basis.

(b) If a public housing, Indian housing, special project or self-help homeownership opportunity recipient objects to the non-recipient responsible entity conducting the environmental review on the basis of performance, timing, or compatibility of objectives, HUD will review the facts to determine who will perform the environmental review.

(c) At any time, HUD may reject the use of a responsible entity to conduct the environmental review in a particular case on the basis of performance, timing or compatibility of objectives, or in accordance with Sec. 58.77(d)(1).

(d) If a responsible entity, other than a recipient, objects to performing an environmental review, or if HUD determines that the responsible entity should not perform the environmental review, HUD may designate another responsible entity to conduct the review in accordance with this part or may itself conduct the environmental review in accordance with the provisions of 24 CFR part 50.

#### Sec. 58.12 Technical and administrative capacity.

The responsible entity must develop the technical and administrative capability necessary to comply with 40 CFR parts 1500 through 1508 and the requirements of this part.

#### Sec. 58.13 Responsibilities of the certifying officer.

Under the terms of the certification required by Sec. 58.71, a responsible entity's certifying officer is the "responsible Federal official" as that term is used in section 102 of NEPA and in statutory provisions cited in Sec. 58.1(b). The Certifying Officer is therefore responsible for all the requirements of section 102 of NEPA and the related provisions in 40 CFR parts 1500 through 1508, and 24 CFR part 58, including the related Federal authorities listed in Sec. 58.5. The Certifying Officer must also:

(a) Represent the responsible entity and be subject to the jurisdiction of the Federal courts. The Certifying Officer will not be represented by the Department of Justice in court; and

(b) Ensure that the responsible entity reviews and comments on all EISs prepared for Federal projects that may have an impact on the recipient's program.

#### Sec. 58.14 Interaction with State, Federal and non-Federal entities.

A responsible entity shall consult with appropriate environmental agencies, State, Federal and non-Federal entities and the public in the preparation of an EIS, EA or other environmental reviews undertaken under the related laws and authorities cited in Sec. 58.5 and Sec. 58.6. The responsible entity must also cooperate with other agencies to reduce duplication between NEPA and comparable environmental review requirements of the State (see 40 CFR 1506.2 (b) and (c)). The responsible entity must prepare its EAs and EISs so that they comply with the environmental review requirements of both Federal and State laws unless otherwise specified or provided by law. State, Federal and local agencies may participate or act in a joint lead or cooperating agency capacity in the preparation of joint EISs or joint environmental assessments (see 40 CFR 1501.5(b) and 1501.6). A single EIS or EA may be prepared and adopted by multiple users to the extent that the review addresses the relevant environmental issues and there is a written agreement between the cooperating agencies which sets forth the coordinated and overall responsibilities.

[63 FR 15271, Mar 30, 1998]

#### Sec. 58.15 Tiering.

Responsible entities may tier their environmental reviews and assessments to eliminate repetitive discussions of the same issues at subsequent levels of review. Tiering is appropriate

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when there is a requirement to evaluate a policy or proposal in the early stages of development or when site-specific analysis or mitigation is not currently feasible and a more narrow or focused analysis is better done at a later date. The site specific review need only reference or summarize the issues addressed in the broader review. The broader review should identify and evaluate those issues ripe for decision and exclude those issues not relevant to the policy, program or project under consideration. The broader review should also establish the policy, standard or process to be followed in the site specific review. The Finding of No Significant Impact (FONSI) with respect to the broader assessment shall include a summary of the assessment and identify the significant issues to be considered in site specific reviews. Subsequent site-specific reviews will not require notices or a Request for Release of Funds unless the Certifying Officer determines that there are unanticipated impacts or impacts not adequately addressed in the prior review. A tiering approach can be used for

meeting environmental review requirements in areas designated for special focus in local Consolidated Plans. Local and State Governments are encouraged to use the Consolidated Plan process to facilitate environmental reviews.

Sec. 58.17 Historic preservation requirements for prior section 17 grants.

A recipient of a section 17 grant shall comply with the historic preservation requirements of this part and existing grant agreements.

Sec. 58.18 Responsibilities of States assuming HUD responsibilities.

(a) States that elect to administer a HUD program shall ensure that the program complies with the provisions of this part. The State must:

(1) Designate the State agency or agencies which will be responsible for carrying out the requirements and administrative responsibilities set forth in subpart H of this part and which will:

(i) Develop a monitoring and enforcement program for post-review actions on environmental reviews and monitor compliance with any environmental conditions included in the award.

(ii) Receive public notices, RROFs and certifications from recipients pursuant to Secs. 58.70 and 58.71; accept objections from the public and from other agencies (Sec. 58.73); and perform other related responsibilities regarding releases of funds.

(2) Fulfill the State role in subpart H relative to the time period set for the receipt and disposition of comments, objections and appeals (if any) on particular projects.

(b) States administering section 17 Programs shall assume the responsibilities set forth in this section for overseeing the State recipient's performance and compliance with NEPA and related Federal authorities as set forth in this part, including receiving RROFs and environmental certifications for particular projects from State recipients and objections from government agencies and the public in accordance with the procedures contained in subpart H of this part. The State shall forward to the responsible HUD Field Office the environmental certification, the RROF and any objections received, and shall recommend whether to approve or disapprove the certification and RROF.

Subpart C--General Policy: Environmental Review Procedures

Sec. 58.21 Time periods.

All time periods in this part shall be counted in calendar days. The first day of a time period begins at 12:01 a.m. local time on the day following the publication or the mailing and posting date of the notice which initiates the time period.

Sec. 58.22 Limitations on activities pending clearance.

(a) A recipient may not commit HUD assistance funds under a program listed in Sec. 58.1(b) on an activity or project until HUD or the State has approved the recipient's RROF and the related certification of the responsible entity. In addition, until the RROF and related certification has been approved, the recipient may not commit non-HUD funds on an activity or project under a program listed in Sec. 58.1(b) if the

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activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives. If an activity is exempt under Sec. 58.34, or not subject to Sec. 58.5 under Sec. 58.35(b), no RROF is required and a recipient may undertake the activity immediately after the award of the assistance.

(b) An option agreement on a proposed site or property is allowable prior to the completion of the environmental review if the option agreement is subject to a determination by the recipient on the desirability of the property for the project as a result of the completion of the environmental review in accordance with this part and the cost of the option is a nominal portion of the purchase price. There is no constraint on the purchase of an option by third parties that have not been selected for HUD funding, have no responsibility for the environmental review and have no say in the approval or disapproval of the project.

(c) Relocation. Funds may be committed for relocation assistance before the approval of the RROF and related certification for the project provided that the relocation assistance is required by 24 CFR part 42.

Sec. 58.23 Financial assistance for environmental review.

The costs of environmental reviews, including costs incurred in complying with any of the related laws and authorities cited in Sec. 58.5 and Sec. 58.6, are eligible costs to the extent allowable under the HUD assistance program regulations.

#### Subpart D--Environmental Review Process: Documentation, Range of Activities, Project Aggregation and Classification

##### Sec. 58.30 Environmental review process.

(a) The environmental review process consists of all the actions that a responsible entity must take to determine compliance with this part. The environmental review process includes all the compliance actions needed for other activities and projects that are not assisted by HUD but are aggregated by the responsible entity in accordance with Sec. 58.32.

(b) The environmental review process should begin as soon as a recipient determines the projected use of HUD assistance.

##### Sec. 58.32 Project aggregation.

(a) A responsible entity must group together and evaluate as a single project all individual activities which are related either on a geographical or functional basis, or are logical parts of a composite of contemplated actions.

(b) In deciding the most appropriate basis for aggregation when evaluating activities under more than one program, the responsible entity may choose: functional aggregation when a specific type of activity (e.g., water improvements) is to take place in several separate locales or jurisdictions; geographic aggregation when a mix of dissimilar but related activities is to be concentrated in a fairly specific project area (e.g., a combination of water, sewer and street improvements and economic development activities); or a combination of aggregation approaches, which, for various project locations, considers the impacts arising from each functional activity and its interrelationship with other activities.

(c) The purpose of project aggregation is to group together related activities so that the responsible entity can:

(1) Address adequately and analyze, in a single environmental review, the separate and combined impacts of activities that are similar, connected and closely related, or that are dependent upon other activities and actions. (See 40 CFR 1508.25(a)).

(2) Consider reasonable alternative courses of action.

(3) Schedule the activities to resolve conflicts or mitigate the individual, combined and/or cumulative effects.

(4) Prescribe mitigation measures and safeguards including project alternatives and modifications to individual activities.

(d) Multi-year project aggregation--(1) Release of funds. When a recipient's planning and program development provide for activities to be implemented over two or more years, the responsible entity's environmental review should consider the relationship

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among all component activities of the multi-year project regardless of the source of funds and address and evaluate their cumulative environmental effects. The estimated range of the aggregated activities and the estimated cost of the total project must be listed and described by the responsible entity in the environmental review and included in the RROF. The release of funds will cover the entire project period.

(2) When one or more of the conditions described in Sec. 58.47 exists, the recipient or other responsible entity must re-evaluate the environmental review.

##### Sec. 58.33 Emergencies.

(a) In the cases of emergency, disaster or imminent threat to health and safety which warrant the taking of an action with significant environmental impact, the provisions of 40 CFR 1506.11 shall apply.

(b) If funds are needed on an emergency basis and when adherence to separate comment periods would prevent the giving of assistance, the combined Notice of FONSI and the Notice of the Intent to Request Release of Funds may be disseminated and/or published simultaneously with the submission of the Request for Release of Funds (RROF). The combined Notice of FONSI and NOI/ROF shall state that the funds are needed on an immediate emergency basis due to a Presidentially declared disaster and that the comment periods have been combined. The Notice shall also invite commenters to submit their comments to both HUD and the responsible entity issuing the notice to assure that these comments will receive full consideration.

##### Sec. 58.34 Exempt activities.

(a) Except for the applicable requirements of Sec. 58.6, the responsible entity does not have to comply with the requirements of this part or undertake any environmental review, consultation or other action under NEPA and the other provisions of law or authorities cited in Sec. 58.5 for the activities exempt by this section or projects consisting solely of the following exempt activities:

- (1) Environmental and other studies, resource identification and the development of plans and strategies;
- (2) Information and financial services;
- (3) Administrative and management activities;
- (4) Public services that will not have a physical impact or result in any physical changes, including but not limited to services concerned with employment, crime prevention, child care, health, drug abuse, education, counseling, energy conservation and welfare or recreational needs;
- (5) Inspections and testing of properties for hazards or defects;
- (6) Purchase of insurance;
- (7) Purchase of tools;
- (8) Engineering or design costs;
- (9) Technical assistance and training;
- (10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;
- (11) Payment of principal and interest on loans made or obligations guaranteed by HUD;
- (12) Any of the categorical exclusions listed in Sec. 58.35(a) provided that there are no circumstances which require compliance with any other Federal laws and authorities cited in Sec. 58.5.

(b) A recipient does not have to submit an RROF and certification, and no further approval from HUD or the State will be needed by the recipient for the drawdown of funds to carry out exempt activities and projects. However, the responsible entity must document in writing its determination that each activity or project is exempt and meets the conditions specified for such exemption under this section.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15271, Mar. 30, 1998]

#### Sec. 58.35 Categorical exclusions.

Categorical exclusion refers to a category of activities for which no environmental impact statement or environmental assessment and finding of no significant impact under NEPA is

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required, except in extraordinary circumstances (see Sec. 58.2(a)(3)) in which a normally excluded activity may have a significant impact. Compliance with the other applicable Federal environmental laws and authorities listed in Sec. 58.5 is required for any categorical exclusion listed in paragraph (a) of this section.

(a) Categorical exclusions subject to Sec. 58.5. The following activities are categorically excluded under NEPA, but may be subject to review under authorities listed in Sec. 58.5:

(1) Acquisition, repair, improvement, reconstruction, or rehabilitation of public facilities and improvements (other than buildings) when the facilities and improvements are in place and will be retained in the same use without change in size or capacity of more than 20 percent (e.g., replacement of water or sewer lines, reconstruction of curbs and sidewalks, repaving of streets).

(2) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and handicapped persons.

(3) Rehabilitation of buildings and improvements when the following conditions are met:

(i) In the case of multifamily residential buildings:

(A) Unit density is not changed more than 20 percent;

(B) The project does not involve changes in land use from residential to non-residential; and

(C) The estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation.

(ii) In the case of non-residential structures, including commercial, industrial, and public buildings:

(A) The facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and

(B) The activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

(4) An individual action on a one- to four-family dwelling or an individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site.

(5) Acquisition or disposition of an existing structure or acquisition of vacant land provided that the structure or land acquired or disposed of will be retained for the same use.

(6) Combinations of the above activities.

(b) Categorical exclusions not subject to Sec. 58.5. The Department has determined that the following categorically excluded activities would not alter any conditions that would require a review or compliance determination under the Federal laws and authorities cited in Sec. 58.5. When the following kinds of activities are undertaken, the responsible entity does not have to publish a NOI/RROF or execute a certification and the recipient does not have to submit a RROF to HUD (or the State) except in the circumstances described in paragraph (c) of this section. Following the award of the assistance, no further approval from HUD or the State will be needed with respect to environmental requirements, except where paragraph (c) of this section applies. The recipient remains responsible for carrying out any applicable requirements under Sec. 58.6.

(1) Tenant-based rental assistance;

(2) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;

(3) Operating costs including maintenance, security, operation, utilities, furnishings, equipment, supplies, staff training and recruitment and other incidental costs;

(4) Economic development activities, including but not limited to, equipment purchase, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or expansion of existing operations;

(5) Activities to assist homebuyers to purchase existing dwelling units or

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dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title.

(6) Affordable housing pre-development costs including legal, consulting, developer and other costs related to obtaining site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

(c) Circumstances requiring NEPA review. If a responsible entity determines that an activity or project identified in paragraph (a) or (b) of this section, because of extraordinary circumstances and conditions at or affecting the location of the activity or project, may have a significant environmental effect, it shall comply with all the requirements of this part.

(d) The Environmental Review Record (ERR) must contain a well organized written record of the process and determinations made under this section.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998]

#### Sec. 58.36 Environmental assessments.

If a project is not exempt or categorically excluded under Secs. 58.34 and 58.35, the responsible entity must prepare an EA in accordance with subpart E of this part. If it is evident without preparing an EA that an EIS is required under Sec. 58.37, the responsible entity should proceed directly to an EIS.

#### Sec. 58.37 Environmental impact statement determinations.

(a) An EIS is required when the project is determined to have a potentially significant impact on the human environment.

(b) An EIS is required under any of the following circumstances, except as provided in paragraph (c) of this section:

(1) The project would provide a site or sites for, or result in the construction of, hospitals or nursing homes containing a total of 2,500 or more beds.

(2) The project would remove, demolish, convert or substantially rehabilitate 2,500 or more existing housing units (but not including rehabilitation projects categorically excluded under Sec. 58.35), or would result in the construction or installation of 2,500 or more housing units, or would provide sites for 2,500 or more housing units.

(3) The project would provide enough additional water and sewer capacity to support 2,500 or more additional housing units. The project does not have to be specifically intended for residential use nor does it have to be totally new construction. If the project is designed to provide upgraded service to existing development as well as to serve new development, only that portion of the increased capacity which is intended to serve new development should be counted.

(c) If, on the basis of an EA, a responsible entity determines that the thresholds in paragraph (b) of this section are the sole reason for the EIS, the responsible entity may prepare a FONSI pursuant to 40 CFR 1501.4. In such cases, the FONSI must be made available for public review for at least 30 days before the responsible entity makes the final determination whether to prepare an EIS.



(d) Notwithstanding paragraphs (a) through (c) of this section, an EIS is not required where Sec. 58.53 is applicable.

(e) Recommended EIS Format. The responsible entity must use the EIS format recommended by the CEQ regulations (40 CFR 1502.10) unless a determination is made on a particular project that there is a compelling reason to do otherwise. In such a case, the EIS format must meet the minimum requirements prescribed in 40 CFR 1502.10.

#### Sec. 58.38 Environmental review record.

The responsible entity must maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the "Environmental Review Record" (ERR), and shall be available for public review. The responsible entity must use the current HUD-recommended formats or develop equivalent formats.

(a) ERR Documents. The ERR shall contain all the environmental review documents, public notices and written

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determinations or environmental findings required by this part as evidence of review, decision making and actions pertaining to a particular project of a recipient. The document shall:

- (1) Describe the project and the activities that the recipient has determined to be part of the project;
- (2) Evaluate the effects of the project or the activities on the human environment;
- (3) Document compliance with applicable statutes and authorities, in particular those cited in Sec. 58.5 and 58.6; and
- (4) Record the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, findings of no significant impact).

(b) Other documents and information. The ERR shall also contain verifiable source documents and relevant base data used or cited in EAs, EISs or other project review documents. These documents may be incorporated by reference into the ERR provided that each source document is identified and available for inspection by interested parties. Proprietary material and special studies prepared for the recipient that are not otherwise generally available for public review shall not be incorporated by reference but shall be included in the ERR.

#### Subpart E--Environmental Review Process: Environmental Assessments (EA's)

#### Sec. 58.40 Preparing the environmental assessment.

The responsible entity may prepare the EA using the HUD recommended format. In preparing an EA for a particular project, the responsible entity must:

(a) Determine existing conditions and describe the character, features and resources of the project area and its surroundings; identify the trends that are likely to continue in the absence of the project.

(b) Identify all potential environmental impacts, whether beneficial or adverse, and the conditions that would change as a result of the project.

(c) Identify, analyze and evaluate all impacts to determine the significance of their effects on the human environment and whether the project will require further compliance under related laws and authorities cited in Sec. 58.5 and Sec. 58.6.

(d) Examine and recommend feasible ways in which the project or external factors relating to the project could be modified in order to eliminate or minimize adverse environmental impacts.

(e) Examine alternatives to the project itself, if appropriate, including the alternative of no action.

(f) Complete all environmental review requirements necessary for the project's compliance with applicable authorities cited in Secs. 58.5 and 58.6.

(g) Based on steps set forth in paragraph (a) through (f) of this section, make one of the following findings:

(1) A Finding of No Significant Impact (FONSI), in which the responsible entity determines that the project is not an action that will result in a significant impact on the quality of the human environment. The responsible entity may then proceed to Sec. 58.43.

(2) A finding of significant impact, in which the project is deemed to be an action which may significantly affect the quality of the human environment. The responsible entity must then proceed with its environmental review under subpart F or G of this part.

#### Sec. 58.43 Dissemination and/or publication of the findings of no significant impact.

(a) If the responsible entity makes a finding of no significant impact, it must prepare a FONSI notice, using the current HUD-recommended format or an equivalent format. As a minimum, the responsible entity must send the FONSI notice to individuals and groups known to be interested in the activities, to the local news media, to the appropriate tribal, local, State and Federal agencies; to the Regional Offices of the Environmental Protection Agency having jurisdiction and to the HUD Field Office (or the State where applicable). The responsible entity may also publish the FONSI notice in a newspaper of

general circulation in the affected community. If the notice is not published, it must also be prominently displayed in public buildings, such as the local Post Office and within

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the project area or in accordance with procedures established as part of the citizen participation process.

(b) The responsible entity may disseminate or publish a FONSI notice at the same time it disseminates or publishes the NOI/RROF required by Sec. 58.70. If the notices are released as a combined notice, the combined notice shall:

- (1) Clearly indicate that it is intended to meet two separate procedural requirements; and
- (2) Advise the public to specify in their comments which "notice" their comments address.

(c) The responsible entity must consider the comments and make modifications, if appropriate, in response to the comments, before it completes its environmental certification and before the recipient submits its RROF. If funds will be used in Presidentially declared disaster areas, modifications resulting from public comment, if appropriate, must be made before proceeding with the expenditure of funds.

#### Sec. 58.45 Public comment periods.

(a) Notice of finding of no significant impact: 15 days from date of publication or if no publication, 18 days from the date of mailing and posting.

(b) Notice of intent to request release of funds: 7 days from date of publication or if no publication, 10 days from date of mailing and posting.

(c) Concurrent or combined notices: Same as FONSI notice.

#### Sec. 58.46 Time delays for exceptional circumstances.

The responsible entity must make the FONSI available for public comments for 30 days before the recipient files the RROF when:

- (a) There is a considerable interest or controversy concerning the project;
- (b) The proposed project is similar to other projects that normally require the preparation of an EIS; or
- (c) The project is unique and without precedent.

#### Sec. 58.47 Re-evaluation of environmental assessments and other environmental findings.

(a) A responsible entity must re-evaluate its environmental findings to determine if the original findings are still valid, when:

(1) The recipient proposes substantial changes in the nature, magnitude or extent of the project, including adding new activities not anticipated in the original scope of the project;

(2) There are new circumstances and environmental conditions which may affect the project or have a bearing on its impact, such as concealed or unexpected conditions discovered during the implementation of the project or activity which is proposed to be continued; or

(3) The recipient proposes the selection of an alternative not in the original finding.

(b)(1) If the original findings are still valid but the data or conditions upon which they were based have changed, the responsible entity must affirm the original findings and update its ERR by including this re-evaluation and its determination based on its findings. Under these circumstances, if a FONSI notice has already been published, no further publication of a FONSI notice is required.

(2) If the responsible entity determines that the original findings are no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts.

(3) Where the recipient is not the responsible entity, the recipient must inform the responsible entity promptly of any proposed substantial changes under paragraph (a)(1) of this section, new circumstances or environmental conditions under paragraph (a)(2) of this section, or any proposals to select a different alternative under paragraph (a)(3) of this section, and must then permit the responsible entity to re-evaluate the findings before proceeding.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998]

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#### Subpart F--Environmental Review Process: Environmental Impact Statement Determinations

#### Sec. 58.52 Adoption of other agencies' EISs.

The responsible entity may adopt a draft or final EIS prepared by another agency provided that the EIS was prepared in accordance with 40 CFR parts 1500 through 1508. If the responsible entity adopts an EIS prepared by another agency, the procedure in 40 CFR 1506.3 shall be followed. An adopted EIS may have to be revised and modified to adapt it to the particular environmental conditions and circumstances of the project if these are different from the project reviewed in the EIS. In such cases the responsible entity must prepare, circulate, and file a supplemental draft EIS in the manner prescribed in Sec. 58.60(d) and otherwise comply with the clearance and time requirements of the EIS process, except that scoping requirements under 40 CFR 1501.7 shall not apply. The agency that prepared the original EIS should be informed that the responsible entity intends to amend and adopt the EIS. The responsible entity may adopt an EIS when it acts as a cooperating agency in its preparation under 40 CFR 1506.3. The responsible entity is not required to re-circulate or file the EIS, but must complete the clearance process for the RROF. The decision to adopt an EIS shall be made a part of the project ERR.

#### Sec. 58.53 Use of prior environmental impact statements.

Where any final EIS has been listed in the Federal Register for a project pursuant to this part, or where an area wide or similar broad scale final EIS has been issued and the EIS anticipated a subsequent project requiring an environmental clearance, then no new EIS is required for the subsequent project if all the following conditions are met:

(a) The ERR contains a decision based on a finding pursuant to Sec. 58.40 that the proposed project is not a new major Federal action significantly affecting the quality of the human environment. The decision shall include:

(1) References to the prior EIS and its evaluation of the environmental factors affecting the proposed subsequent action subject to NEPA;

(2) An evaluation of any environmental factors which may not have been previously assessed, or which may have significantly changed;

(3) An analysis showing that the proposed project is consistent with the location, use, and density assumptions for the site and with the timing and capacity of the circulation, utility, and other supporting infrastructure assumptions in the prior EIS;

(4) Documentation showing that where the previous EIS called for mitigating measures or other corrective action, these are completed to the extent reasonable given the current state of development.

(b) The prior final EIS has been filed within five (5) years, and updated as follows:

(1) The EIS has been updated to reflect any significant revisions made to the assumptions under which the original EIS was prepared;

(2) The EIS has been updated to reflect new environmental issues and data or legislation and implementing regulations which may have significant environmental impact on the project area covered by the prior EIS.

(c) There is no litigation pending in connection with the prior EIS, and no final judicial finding of inadequacy of the prior EIS has been made.

#### Subpart G--Environmental Review Process: Procedures for Draft, Final and Supplemental Environmental Impact Statements

#### Sec. 58.55 Notice of intent to prepare an EIS.

As soon as practicable after the responsible entity decides to prepare an EIS, it must publish a NOI/EIS, using the HUD recommended format and disseminate it in the same manner as required by 40 CFR parts 1500 through 1508.

#### Sec. 58.56 Scoping process.

The determination on whether or not to hold a scoping meeting will depend on the same circumstances and factors as for the holding of public hearings

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under Sec. 58.59. The responsible entity must wait at least 15 days after disseminating or publishing the NOI/EIS before holding a scoping meeting.

#### Sec. 58.57 Lead agency designation.

If there are several agencies ready to assume the lead role, the responsible entity must make its decision based on the criteria in 40 CFR 1501.5(c). If the responsible entity and a Federal agency are unable to reach agreement, then the

responsible entity must notify HUD (or the State, where applicable). HUD (or the State) will assist in obtaining a determination based on the procedure set forth in 40 CFR 1501.5(e).

#### Sec. 58.59 Public hearings and meetings.

(a) Factors to consider. In determining whether or not to hold public hearings in accordance with 40 CFR 1506.6, the responsible entity must consider the following factors:

(1) The magnitude of the project in terms of economic costs, the geographic area involved, and the uniqueness or size of commitment of resources involved.

(2) The degree of interest in or controversy concerning the project.

(3) The complexity of the issues and the likelihood that information will be presented at the hearing which will be of assistance to the responsible entity.

(4) The extent to which public involvement has been achieved through other means.

(b) Procedure. All public hearings must be preceded by a notice of public hearing, which must be published in the local news media 15 days before the hearing date. The Notice must:

(1) State the date, time, place, and purpose of the hearing or meeting.

(2) Describe the project, its estimated costs, and the project area.

(3) State that persons desiring to be heard on environmental issues will be afforded the opportunity to be heard.

(4) State the responsible entity's name and address and the name and address of its Certifying Officer.

(5) State what documents are available, where they can be obtained, and any charges that may apply.

#### Sec. 58.60 Preparation and filing of environmental impact statements.

(a) The responsible entity must prepare the draft environmental impact statement (DEIS) and the final environmental impact statements (FEIS) using the current HUD recommended format or its equivalent.

(b) The responsible entity must file and distribute the (DEIS) and the (FEIS) in the following manner:

(1) Five copies to EPA Headquarters;

(2) Five copies to EPA Regional Office;

(3) Copies made available in the responsible entity's and the recipient's office;

(4) Copies or summaries made available to persons who request them; and

(5) FEIS only--one copy to State, HUD Field Office, and HUD Headquarters library.

(c) The responsible entity may request waivers from the time requirements specified for the draft and final EIS as prescribed in 40 CFR 1506.6.

(d) When substantial changes are proposed in a project or when significant new circumstances or information becomes available during an environmental review, the recipient may prepare a supplemental EIS as prescribed in 40 CFR 1502.9.

(e) The responsible entity must prepare a Record of Decision (ROD) as prescribed in 40 CFR 1505.2.

[61 FR 19122, Apr. 30, 1996, as amended at 63 FR 15272, Mar. 30, 1998]

#### Subpart H--Release of Funds for Particular Projects

#### Sec. 58.70 Notice of intent to request release of funds.

The NOI/RROF must be disseminated and/or published in the manner prescribed by Sec. 58.43 and Sec. 58.45 before the certification is signed by the responsible entity.

#### Sec. 58.71 Request for release of funds and certification.

(a) The RROF and certification shall be sent to the appropriate HUD Field Office (or the State, if applicable), except as provided in paragraph (b) of

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this section. This request shall be executed by the Certifying Officer. The request shall describe the specific project and activities covered by the request and contain the certification required under the applicable statute cited in Sec. 58.1(b). The RROF and certification must be in a form specified by HUD.

(b) When the responsible entity is conducting an environmental review on behalf of a recipient, as provided for in Sec. 58.10, the recipient must provide the responsible entity with all available project and environmental information and refrain from undertaking any physical activities or choice limiting actions until HUD (or the State, if applicable) has approved its

request for release of funds. The certification form executed by the responsible entity's certifying officer shall be sent to the recipient that is to receive the assistance along with a description of any special environmental conditions that must be adhered to in carrying out the project. The recipient is to submit the RROF and the certification of the responsible entity to HUD (or the State, if applicable) requesting the release of funds. The recipient must agree to abide by the special conditions, procedures and requirements of the environmental review, and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions.

(c) If the responsible entity determines that some of the activities are exempt under applicable provisions of this part, the responsible entity shall advise the recipient that it may commit funds for these activities as soon as programmatic authorization is received. This finding shall be documented in the ERR maintained by the responsible entity and in the recipient's project files.

#### Sec. 58.72 HUD or State actions on RROFs and certifications.

The actions which HUD (or a State) may take with respect to a recipient's environmental certification and RROF are as follows:

(a) In the absence of any receipt of objection to the contrary, except as provided in paragraph (b) of this section, HUD (or the State) will assume the validity of the certification and RROF and will approve these documents after expiration of the 15-day period prescribed by statute.

(b) HUD (or the State) may disapprove a certification and RROF if it has knowledge that the responsible entity has not complied with the items in Sec. 58.75, or that the RROF and certification are inaccurate.

(c) In cases in which HUD has approved a certification and RROF but subsequently learns (e.g., through monitoring) that the recipient violated Sec. 58.22 or the recipient or responsible entity otherwise failed to comply with a clearly applicable environmental authority, HUD shall impose appropriate remedies and sanctions in accord with the law and regulations for the program under which the violation was found.

#### Sec. 58.73 Objections to release of funds.

HUD (or the State) will not approve the ROF for any project before 15 calendar days have elapsed from the time of receipt of the RROF and the certification or from the time specified in the notice published pursuant to Sec. 58.70, whichever is later. Any person or agency may object to a recipient's RROF and the related certification. However, the objections must meet the conditions and procedures set forth in subpart H of this part. HUD (or the State) can refuse the RROF and certification on any grounds set forth in Sec. 58.75. All decisions by HUD (or the State) regarding the RROF and the certification shall be final.

#### Sec. 58.74 Time for objecting.

All objections must be received by HUD (or the State) within 15 days from the time HUD (or the State) receives the recipient's RROF and the related certification, or within the time period specified in the notice, whichever is later.

#### Sec. 58.75 Permissible bases for objections.

HUD (or the State), will consider objections claiming a responsible entity's noncompliance with this part based only on any of the following grounds:

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(a) The certification was not in fact executed by the responsible entity's Certifying Officer.

(b) The responsible entity has failed to make one of the two findings pursuant to Sec. 58.40 or to make the written determination required by Secs. 58.35, 58.47 or 58.53 for the project, as applicable.

(c) The responsible entity has omitted one or more of the steps set forth at subpart E of this part for the preparation, publication and completion of an EA.

(d) The responsible entity has omitted one or more of the steps set forth at subparts F and G of this part for the conduct, preparation, publication and completion of an EIS.

(e) The recipient has committed funds or incurred costs not authorized by this part before release of funds and approval of the environmental certification by HUD or the State.

(f) Another Federal agency acting pursuant to 40 CFR part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality.

#### Sec. 58.76 Procedure for objections.

A person or agency objecting to a responsible entity's RROF and certification shall submit objections in writing to HUD (or the State). The objections shall:

- (a) Include the name, address and telephone number of the person or agency submitting the objection, and be signed by the person or authorized official of an agency.
- (b) Be dated when signed.
- (c) Describe the basis for objection and the facts or legal authority supporting the objection.
- (d) State when a copy of the objection was mailed or delivered to the responsible entity's Certifying Officer.

Sec. 58.77 Effect of approval of certification.

(a) Responsibilities of HUD and States. HUD's (or, where applicable, the State's) approval of the certification shall be deemed to satisfy the responsibilities of the Secretary under NEPA and related provisions of law cited at Sec. 58.5 insofar as those responsibilities relate to the release of funds as authorized by the applicable provisions of law cited in Sec. 58.1(b).

(b) Public and agency redress. Persons and agencies seeking redress in relation to environmental reviews covered by an approved certification shall deal with the responsible entity and not with HUD. It is HUD's policy to refer all inquiries and complaints to the responsible entity and its Certifying Officer. Similarly, the State (where applicable) may direct persons and agencies seeking redress in relation to environmental reviews covered by an approved certification to deal with the responsible entity, and not the State, and may refer inquiries and complaints to the responsible entity and its Certifying Officer. Remedies for noncompliance are set forth in program regulations.

(c) Implementation of environmental review decisions. Projects of a recipient will require post-review monitoring and other inspection and enforcement actions by the recipient and the State or HUD (using procedures provided for in program regulations) to assure that decisions adopted through the environmental review process are carried out during project development and implementation.

(d) Responsibility for monitoring and training. (1) At least once every three years, HUD intends to conduct in-depth monitoring and exercise quality control (through training and consultation) over the environmental activities performed by responsible entities under this part. Limited monitoring of these environmental activities will be conducted during each program monitoring site visit. If through limited or in-depth monitoring of these environmental activities or by other means, HUD becomes aware of any environmental deficiencies, HUD may take one or more of the following actions:

(i) In the case of problems found during limited monitoring, HUD may schedule in-depth monitoring at an earlier date or may schedule in-depth monitoring more frequently;

(ii) HUD may require attendance by staff of the responsible entity at HUD-sponsored or approved training, which will be provided periodically at various locations around the country;

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(iii) HUD may refuse to accept the certifications of environmental compliance on subsequent grants;

(iv) HUD may suspend or terminate the responsible entity's assumption of the environmental review responsibility;

(v) HUD may initiate sanctions, corrective actions, or other remedies specified in program regulations or agreements or contracts with the recipient.

(2) HUD's responsibilities and action under paragraph (d)(1) of this section shall not be construed to limit or reduce any responsibility assumed by a responsible entity with respect to any particular release of funds under this part. Whether or not HUD takes action under paragraph (d)(1) of this section, the Certifying Officer remains the responsible Federal official under Sec. 58.13 with respect to projects and activities for which the Certifying Officer has submitted a certification under this part.